

SB19-002 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby:

5 (a) Finds that:

6 (I) Student loan debt has reached a crisis point. More than
7 44,000,000 individuals in the United States owe some amount of student
8 loan debt. Total student loan debt in the United States currently exceeds
9 \$1.48 trillion, surpassing both the amount of credit card debt and car
10 loans. With tuition and other college costs on the rise, student loan debt
11 continues to rise, with no clear reduction in sight.

12 (II) According to the Institute for College Access and Success, 52
13 percent of Colorado's students graduate with student loan debt, with an
14 average balance of \$26,530. There are approximately 761,000 student
15 loan borrowers in Colorado, and the total student loan debt outstanding
16 for Coloradans is approximately \$26 billion.

17 (III) Student loan debt is a hindrance to the state's economy,
18 preventing borrowers from achieving financial independence, buying
19 property, starting businesses, and otherwise investing in Colorado's
20 economy;

21 (b) Determines that:

22 (I) Student loan servicers administer student loans, serving as a
23 critical link between borrowers and lenders in managing accounts,
24 processing payments, and communicating directly with borrowers.
25 Despite this critical relationship, according to the federal consumer
26 financial protection bureau (CFPB), there are no consistent, market-wide
27 federal standards for student loan servicing.

28 (II) The CFPB released a report in September of 2015 that found
29 that student loan borrowers encounter servicers that discourage
30 borrower-friendly alternative payment plans, fail to respond to questions
31 and payment processing errors, and fail to provide sufficient information
32 to borrowers regarding payments, benefits, interest rates, and other
33 charges; and

34 (III) A report released in March of 2017 found that Coloradans
35 complained to the CFPB 124 times about their student loan servicers in
36 2017 alone, and that nationally, complaints against servicers had
37 increased by 429 percent compared to data collected in 2016; and

38 (c) Declares that it intends by the enactment of the "Colorado
39 Student Loan Servicers Act" to promote all of the following:

40 (I) Meaningful access to federal affordable repayment and loan

1 forgiveness benefits;

2 (II) Reliable information about student loans and loan repayment

3 options;

4 (III) The public interest in furtherance of the state's historic police

5 powers to protect the health, welfare, and safety of the state and, in

6 furtherance of the public interest, the act should be liberally construed to

7 effectuate that intent; and

8 (IV) Quality customer service and fair treatment.

9 **SECTION 2.** In Colorado Revised Statutes, **add** article 20 to title

10 5 as follows:

ARTICLE 20

Colorado Student Loan Servicers

13 **5-20-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 20 IS THE

14 "COLORADO STUDENT LOAN SERVICERS ACT".

15 **5-20-102. Scope of article.** THIS ARTICLE 20 APPLIES TO ANY

16 PERSON ENGAGED IN SERVICING A STUDENT EDUCATION LOAN OWED BY AN

17 INDIVIDUAL WHO IS A RESIDENT OF THIS STATE. FOR THE PURPOSES OF THIS

18 ARTICLE 20, THE RESIDENCE OF AN INDIVIDUAL IS THE ADDRESS GIVEN BY

19 THE INDIVIDUAL AS THE INDIVIDUAL'S RESIDENCE TO THE CREDITOR OR TO

20 THE STUDENT LOAN SERVICER. UNTIL AN INDIVIDUAL NOTIFIES THE

21 CREDITOR OR THE STUDENT LOAN SERVICER OF A NEW OR DIFFERENT

22 ADDRESS, THE GIVEN ADDRESS IS PRESUMED TO BE UNCHANGED.

23 **5-20-103. Definitions.** AS USED IN THIS ARTICLE 20, UNLESS THE

24 CONTEXT OTHERWISE REQUIRES:

25 (1) "ADMINISTRATOR" MEANS THE ADMINISTRATOR DESIGNATED

26 IN SECTION 5-6-103.

27 (2) "CONSUMER REPORTING AGENCY" HAS THE MEANING

28 ESTABLISHED IN SECTION 5-18-103 (4).

29 (3) "EDUCATION EXPENSES" MEANS ANY OF THE EXPENSES THAT

30 ARE INCLUDED AS PART OF THE COST OF ATTENDANCE OF A STUDENT AS

31 DEFINED IN 20 U.S.C. SEC. 1087ll, REGARDLESS OF WHETHER THE

32 EXPENSES ARE FOR POSTSECONDARY EDUCATION.

33 (4) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A

34 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER

35 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

36 (5) "SERVICING" MEANS:

37 (a) (I) RECEIVING ANY SCHEDULED PERIODIC PAYMENTS FROM A

38 BORROWER OR NOTIFICATION OF SUCH PAYMENTS; AND

39 (II) APPLYING PAYMENTS TO THE BORROWER'S ACCOUNT

40 PURSUANT TO THE TERMS OF A STUDENT EDUCATION LOAN OR OF THE

41 CONTRACT GOVERNING THE SERVICING;

42 (b) DURING A PERIOD WHEN NO PAYMENT IS REQUIRED ON A

43 STUDENT EDUCATION LOAN:

(I) MAINTAINING ACCOUNT RECORDS FOR THE STUDENT EDUCATION LOAN; AND

(II) COMMUNICATING WITH THE BORROWER REGARDING THE STUDENT EDUCATION LOAN, ON BEHALF OF THE LOAN'S HOLDER; OR

(c) INTERACTIONS WITH A BORROWER, INCLUDING ACTIVITIES TO HELP PREVENT DEFAULT ON OBLIGATIONS ARISING FROM STUDENT EDUCATION LOANS, CONDUCTED TO FACILITATE THE ACTIVITIES DESCRIBED IN SUBSECTION (5)(a) OR (5)(b) OF THIS SECTION.

(6) "STUDENT EDUCATION LOAN":

(a) MEANS A LOAN THAT IS MADE, INSURED, OR GUARANTEED UNDER TITLE IV OF THE FEDERAL "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC. 1070 ET SEQ., AS AMENDED, OR THAT IS EXTENDED TO A STUDENT LOAN BORROWER FOR THE PURPOSE OF FUNDING, IN WHOLE OR IN PART, EDUCATION EXPENSES, REGARDLESS OF WHETHER THE EXPENSES ARE FOR POSTSECONDARY EDUCATION. THE TERM INCLUDES A LOAN THAT IS EXTENDED IN ORDER TO REFINANCE OR CONSOLIDATE A STUDENT LOAN BORROWER'S EXISTING STUDENT EDUCATION LOANS.

(b) DOES NOT INCLUDE A LOAN UNDER AN OPEN-END CREDIT PLAN, AS DEFINED IN REGULATION Z, 12 CFR 1026.2 (a)(20), OR A LOAN THAT IS SECURED BY REAL PROPERTY, REGARDLESS OF THE PURPOSE FOR THE LOAN.

(7) "STUDENT LOAN BORROWER" OR "BORROWER" MEANS:

(a) AN INDIVIDUAL WHO HAS RECEIVED OR AGREED TO PAY A STUDENT EDUCATION LOAN; OR

(b) AN INDIVIDUAL WHO SHARES RESPONSIBILITY WITH THE INDIVIDUAL SPECIFIED IN SUBSECTION (7)(a) OF THIS SECTION FOR REPAYING THE STUDENT EDUCATION LOAN.

(8) "STUDENT LOAN SERVICER":

(a) MEANS A PERSON THAT:

(I) (A) RECEIVES ANY SCHEDULED PERIODIC PAYMENTS FROM A STUDENT LOAN BORROWER OR NOTIFICATION OF THE PAYMENTS; AND

(B) APPLIES PAYMENTS TO THE STUDENT LOAN BORROWER'S ACCOUNT PURSUANT TO THE TERMS OF THE STUDENT EDUCATION LOAN OR OF THE CONTRACT GOVERNING THE SERVICING;

(II) DURING A PERIOD WHEN NO PAYMENT IS REQUIRED ON A STUDENT EDUCATION LOAN:

(A) MAINTAINS ACCOUNT RECORDS FOR THE LOAN; AND

(B) COMMUNICATES WITH THE STUDENT LOAN BORROWER REGARDING THE LOAN, ON BEHALF OF THE LOAN'S HOLDER; OR

(III) INTERACTS WITH A STUDENT LOAN BORROWER, INCLUDING ACTIVITIES TO HELP PREVENT DEFAULT ON OBLIGATIONS ARISING FROM EDUCATION LOANS, CONDUCTED TO FACILITATE THE ACTIVITIES DESCRIBED IN SUBSECTION (8)(a)(I) OR (8)(a)(II) OF THIS SECTION;

5-20-104. Student loan ombudsman - report - fund - rules

27 **- repeal.** (1) THE ADMINISTRATOR SHALL DESIGNATE, SUPPORT, AND
28 MAINTAIN A STUDENT LOAN OMBUDSPERSON TO PROVIDE TIMELY
29 ASSISTANCE TO STUDENT LOAN BORROWERS. THE STUDENT LOAN
30 OMBUDSPERSON, IN CONSULTATION WITH THE ADMINISTRATOR, SHALL:

40 (c) **Assistance.** ASSIST STUDENT LOAN BORROWERS IN
41 UNDERSTANDING THEIR RIGHTS AND RESPONSIBILITIES UNDER THE TERMS
42 OF STUDENT EDUCATION LOANS;

43 (d) **Information.** PROVIDE INFORMATION TO THE PUBLIC,

1 AGENCIES, LEGISLATORS, AND OTHERS REGARDING THE PROBLEMS AND
2 CONCERNS OF STUDENT LOAN BORROWERS AND MAKE RECOMMENDATIONS
3 FOR RESOLVING THOSE PROBLEMS AND CONCERNS;

4 (e) **Laws, rules, and policies.** ANALYZE AND MONITOR THE
5 DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL
6 LAWS, ORDINANCES, REGULATIONS, RULES, AND POLICIES RELATING TO
7 STUDENT LOAN BORROWERS AND RECOMMEND ANY NECESSARY CHANGES;

8 (f) **Student loan history.** REVIEW THE COMPLETE STUDENT
9 EDUCATION LOAN HISTORY FOR A STUDENT LOAN BORROWER WHO
10 PROVIDES WRITTEN CONSENT FOR THE REVIEW;

11 (g) **Availability.** DISSEMINATE INFORMATION CONCERNING THE
12 AVAILABILITY OF THE STUDENT LOAN OMBUDSPERSON TO ASSIST STUDENT
13 LOAN BORROWERS AND POTENTIAL STUDENT LOAN BORROWERS,
14 INCLUDING DISSEMINATING THE INFORMATION TO INSTITUTIONS OF HIGHER
15 EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN
16 STUDENT EDUCATION LOAN LENDING WITH ANY SERVICING CONCERNS;

17 (h) **Education course.** ESTABLISH AND MAINTAIN A STUDENT
18 LOAN BORROWER EDUCATION COURSE WITHIN EXISTING RESOURCES THAT
19 INCLUDES EDUCATIONAL PRESENTATIONS AND MATERIALS REGARDING
20 STUDENT EDUCATION LOANS. THE COURSE MUST INCLUDE AT LEAST KEY
21 LOAN TERMS, DOCUMENTATION REQUIREMENTS, MONTHLY PAYMENT
22 OBLIGATIONS, INCOME-BASED REPAYMENT OPTIONS, LOAN FORGIVENESS,
23 AND DISCLOSURE REQUIREMENTS.

24 (i) **Other actions.** TAKE ANY OTHER ACTIONS NECESSARY TO
25 FULFILL THE DUTIES OF THE STUDENT LOAN OMBUDSPERSON AS SET FORTH
26 IN THIS SECTION.

27 (2) (a) **Annual report.** THE ADMINISTRATOR SHALL SUBMIT A
28 REPORT BY JANUARY 1 OF EACH YEAR TO THE COMMITTEES OF REFERENCE
29 OF THE GENERAL ASSEMBLY HAVING JURISDICTION OVER EDUCATION,
30 INSURANCE, AND FINANCIAL SERVICES MATTERS. THE REPORT MUST
31 INCLUDE:

32 (I) **Implementation.** A DESCRIPTION OF ACTIONS TAKEN WITH
33 RESPECT TO THE IMPLEMENTATION OF THIS SECTION;

34 (II) **Effectiveness.** AN ASSESSMENT OF THE OVERALL
35 EFFECTIVENESS OF THE STUDENT LOAN OMBUDSPERSON; AND

36 (III) **Additional steps.** RECOMMENDATIONS REGARDING
37 ADDITIONAL STEPS FOR THE ADMINISTRATOR TO GAIN REGULATORY
38 CONTROL OVER LICENSING AND ENFORCEMENT WITH RESPECT TO STUDENT
39 LOAN SERVICERS.

40 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
41 2023.

42 (3) **Student loan ombudsperson and student loan servicer
43 licensing fund.** (a) THE STUDENT LOAN OMBUDSPERSON AND STUDENT

1 LOAN SERVICER LICENSING FUND, REFERRED TO IN THIS SECTION AS THE
2 "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND
3 CONSISTS OF LICENSING AND INVESTIGATION FEES COLLECTED PURSUANT
4 TO SECTION 5-20-107, CIVIL PENALTIES COLLECTED PURSUANT TO
5 SECTIONS 5-20-114 AND 5-20-117, ANY OTHER MONEY REQUIRED BY LAW
6 TO BE DEPOSITED IN THE FUND, AND ANY OTHER MONEY THAT THE
7 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

8 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
9 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
10 FUND TO THE FUND.

11 (c) ALL MONEY HELD IN THE FUND IS CONTINUOUSLY
12 APPROPRIATED TO THE DEPARTMENT OF LAW. THE ADMINISTRATOR SHALL
13 EXPEND MONEY HELD IN THE FUND TO ADMINISTER THIS ARTICLE 20.

14 **5-20-105. License required.** A PERSON SHALL NOT ACT AS A
15 STUDENT LOAN SERVICER, DIRECTLY OR INDIRECTLY, WITHOUT FIRST
16 OBTAINING A STUDENT LOAN SERVICING LICENSE FROM THE
17 ADMINISTRATOR PURSUANT TO THIS ARTICLE 20.

18 **5-20-106. Licensure of student loan servicers.** (1) **Automatic**
19 **issuance of license for federal student loan servicing contractors.**

20 (a) A PERSON SEEKING TO ACT WITHIN THIS STATE AS A STUDENT LOAN
21 SERVICER IS EXEMPT FROM THE APPLICATION PROCEDURES DESCRIBED IN
22 SUBSECTION (2) OF THIS SECTION UPON A DETERMINATION BY THE
23 ADMINISTRATOR THAT STUDENT LOAN SERVICING PERFORMED IN THIS
24 STATE IS CONDUCTED PURSUANT TO A CONTRACT AWARDED BY THE
25 UNITED STATES SECRETARY OF EDUCATION UNDER 20 U.S.C. SEC. 1087f.
26 THE ADMINISTRATOR SHALL PRESCRIBE THE PROCEDURE TO DOCUMENT
27 ELIGIBILITY FOR THE EXEMPTION.

28 (b) **Automatic license.** A PERSON DEEMED EXEMPT BY THE
29 ADMINISTRATOR PURSUANT TO THIS SUBSECTION (1) SHALL, UPON
30 PAYMENT OF THE FEES REQUIRED BY SECTION 5-20-107, AUTOMATICALLY
31 BE ISSUED A LICENSE FROM THE ADMINISTRATOR AND SHALL BE
32 CONSIDERED BY THE ADMINISTRATOR TO HAVE MET ALL REQUIREMENTS
33 SET FORTH IN SUBSECTION (2) OF THIS SECTION.

34 (c) **Procedural exemptions.** A PERSON ISSUED A LICENSE
35 PURSUANT TO THIS SUBSECTION (1) IS EXEMPT FROM SUBSECTIONS (3) TO
36 (9) AND (11) OF THIS SECTION. A PERSON ISSUED A LICENSE PURSUANT TO
37 THIS SUBSECTION (1) SHALL COMPLY WITH THE RECORD REQUIREMENTS IN
38 SUBSECTION (10) OF THIS SECTION EXCEPT TO THE EXTENT THAT THE
39 REQUIREMENTS ARE INCONSISTENT WITH FEDERAL LAW.

40 (d) **Notice.** A PERSON ISSUED A LICENSE PURSUANT TO THIS
41 SUBSECTION (1) SHALL PROVIDE THE ADMINISTRATOR WITH WRITTEN
42 NOTICE WITHIN SEVEN DAYS AFTER NOTIFICATION OF THE EXPIRATION,
43 REVOCATION, OR TERMINATION OF ANY CONTRACT AWARDED BY THE

1 UNITED STATES SECRETARY OF EDUCATION UNDER 20 U.S.C. SEC. 1087f.
2 THE PERSON HAS THIRTY DAYS AFTER NOTIFICATION TO SATISFY ALL
3 REQUIREMENTS ESTABLISHED UNDER SUBSECTION (2) OF THIS SECTION IN
4 ORDER TO CONTINUE TO ACT WITHIN THIS STATE AS A STUDENT LOAN
5 SERVICER. AT THE EXPIRATION OF THE THIRTY-DAY PERIOD, IF THE PERSON
6 SEEKING TO ACT WITHIN THIS STATE AS A STUDENT LOAN SERVICER HAS
7 NOT SATISFIED THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION,
8 THE ADMINISTRATOR SHALL SUMMARILY SUSPEND ANY LICENSE GRANTED
9 TO THE PERSON UNDER THIS SECTION IN ACCORDANCE WITH SECTION
10 24-4-104 (4); EXCEPT THAT THE FULL INVESTIGATION REQUIREMENT
11 SPECIFIED IN SECTION 24-4-104 (4)(a) DOES NOT APPLY.

12 (e) **Preservation of authorities.** WITH RESPECT TO STUDENT LOAN
13 SERVICING NOT CONDUCTED PURSUANT TO A CONTRACT AWARDED BY THE
14 UNITED STATES SECRETARY OF EDUCATION UNDER 20 U.S.C. SEC. 1087f,
15 NOTHING IN THIS SECTION PREVENTS THE ADMINISTRATOR FROM ISSUING,
16 OR FILING A CIVIL ACTION FOR, AN ORDER TO TEMPORILY OR
17 PERMANENTLY PROHIBIT OR BAR ANY PERSON FROM ACTING AS A STUDENT
18 LOAN SERVICER OR VIOLATING APPLICABLE LAW.

19 (2) **Other student loan servicers.** (a) A PERSON SEEKING TO ACT
20 WITHIN THIS STATE AS A STUDENT LOAN SERVICER, OTHER THAN A PERSON
21 DEEMED EXEMPT BY THE ADMINISTRATOR PURSUANT TO SUBSECTION (1)
22 OF THIS SECTION, MUST APPLY TO THE ADMINISTRATOR FOR AN INITIAL
23 LICENSE IN THE FORM THE ADMINISTRATOR PRESCRIBES. THE APPLICATION
24 MUST BE ACCCOMPANIED BY:

25 (I) A FINANCIAL STATEMENT PREPARED BY A CERTIFIED PUBLIC
26 ACCOUNTANT OR A PUBLIC ACCOUNTANT, A GENERAL PARTNER IF THE
27 APPLICANT IS A PARTNERSHIP, A CORPORATE OFFICER IF THE APPLICANT IS
28 A CORPORATION, OR A MEMBER DULY AUTHORIZED TO EXECUTE FINANCIAL
29 STATEMENTS IF THE APPLICANT IS A LIMITED LIABILITY COMPANY OR
30 ASSOCIATION;

31 (II) INFORMATION REGARDING THE HISTORY OF CRIMINAL
32 CONVICTIONS OF THE FOLLOWING:

33 (A) THE APPLICANT;

34 (B) PARTNERS OF THE APPLICANT, IF THE APPLICANT IS IN A
35 PARTNERSHIP;

36 (C) MEMBERS OF THE APPLICANT, IF THE APPLICANT IS A LIMITED
37 LIABILITY COMPANY OR ASSOCIATION; OR

38 (D) OFFICERS, DIRECTORS, AND PRINCIPAL EMPLOYEES OF THE
39 APPLICANT, IF THE APPLICANT IS A CORPORATION.

40 (b) THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION
41 (2)(a)(II) OF THIS SECTION MUST BE SUFFICIENT, AS DETERMINED BY THE
42 ADMINISTRATOR, TO MAKE THE FINDINGS REQUIRED UNDER THIS SECTION.

43 (3) **Investigation of applicant.** (a) UPON THE FILING OF AN

1 APPLICATION FOR AN INITIAL LICENSE AND THE PAYMENT OF THE FEES FOR
2 LICENSING AND INVESTIGATION PURSUANT TO SECTION 5-20-107, THE
3 ADMINISTRATOR SHALL INVESTIGATE THE FINANCIAL CONDITION AND
4 RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, CHARACTER, AND
5 GENERAL FITNESS OF THE APPLICANT.

6 (b) THE ADMINISTRATOR MAY ISSUE A LICENSE PURSUANT TO THIS
7 SECTION IF THE ADMINISTRATOR FINDS THAT:

8 (I) THE APPLICANT'S FINANCIAL CONDITION IS SOUND;
9 (II) THE APPLICANT'S BUSINESS WILL BE CONDUCTED HONESTLY,
10 FAIRLY, EQUITABLY, CAREFULLY, AND EFFICIENTLY WITHIN THE PURPOSES
11 AND INTENT OF THIS ARTICLE 20 AND IN A MANNER COMMANDING THE
12 CONFIDENCE AND TRUST OF THE COMMUNITY;

13 (III) IF THE APPLICANT IS:

14 (A) AN INDIVIDUAL, THE INDIVIDUAL IS IN ALL RESPECTS
15 PROPERLY QUALIFIED AND OF GOOD CHARACTER;

16 (B) A PARTNERSHIP, EACH PARTNER IS IN ALL RESPECTS PROPERLY
17 QUALIFIED AND OF GOOD CHARACTER;

18 (C) A LIMITED LIABILITY COMPANY OR ASSOCIATION, EACH
19 MEMBER IS IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD
20 CHARACTER; OR

21 (D) A CORPORATION, THE PRESIDENT, CHAIR OF THE EXECUTIVE
22 COMMITTEE, SENIOR OFFICER RESPONSIBLE FOR THE CORPORATION'S
23 BUSINESS, CHIEF FINANCIAL OFFICER OR ANY OTHER PERSON WHO
24 PERFORMS SIMILAR FUNCTIONS AS DETERMINED BY THE ADMINISTRATOR,
25 EACH DIRECTOR, EACH TRUSTEE, AND EACH SHAREHOLDER OWNING TEN
26 PERCENT OR MORE OF EACH CLASS OF THE SECURITIES OF THE
27 CORPORATION ARE IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD
28 CHARACTER;

29 (IV) NO PERSON ACTING ON BEHALF OF THE APPLICANT
30 KNOWINGLY HAS MADE AN INCORRECT STATEMENT OF A MATERIAL FACT
31 IN THE APPLICATION OR IN ANY REPORT OR STATEMENT MADE PURSUANT
32 TO THIS ARTICLE 20; AND

33 (V) THE APPLICANT HAS MET ANY OTHER REQUIREMENTS AS
34 DETERMINED BY THE ADMINISTRATOR.

35 (4) **License expiration.** A LICENSE ISSUED PURSUANT TO THIS
36 SECTION EXPIRES EACH JANUARY 31 UNLESS RENEWED OR EARLIER
37 SURRENDERED, SUSPENDED, OR REVOKED PURSUANT TO THIS ARTICLE 20.
38 NO LATER THAN FIFTEEN DAYS AFTER A LICENSEE CEASES TO ENGAGE IN
39 THE BUSINESS OF SERVICING IN THIS STATE FOR ANY REASON, INCLUDING
40 A BUSINESS DECISION TO TERMINATE OPERATIONS IN THIS STATE, LICENSE
41 REVOCATION, BANKRUPTCY, OR VOLUNTARY DISSOLUTION, THE LICENSEE
42 SHALL PROVIDE WRITTEN NOTICE OF SURRENDER TO THE ADMINISTRATOR
43 AND SHALL SURRENDER TO THE ADMINISTRATOR ITS LICENSE FOR EACH

1 LOCATION IN WHICH THE LICENSEE HAS CEASED TO ENGAGE IN SERVICING.
2 THE WRITTEN NOTICE OF SURRENDER MUST IDENTIFY THE LOCATION
3 WHERE THE RECORDS OF THE LICENSEE WILL BE STORED AND THE NAME,
4 ADDRESS, AND TELEPHONE NUMBER OF A PERSON AUTHORIZED TO PROVIDE
5 ACCESS TO THE RECORDS. THE SURRENDER OF A LICENSE DOES NOT
6 REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL LIABILITY
7 ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE SURRENDER
8 OF THE LICENSE, INCLUDING ANY ADMINISTRATIVE ACTIONS UNDERTAKEN
9 BY THE ADMINISTRATOR TO REVOKE OR SUSPEND A LICENSE, ASSESS A
10 CIVIL PENALTY, ORDER RESTITUTION, OR EXERCISE ANY OTHER AUTHORITY
11 PROVIDED TO THE ADMINISTRATOR.

12 (5) **License renewal.** (a) A LICENSE ISSUED PURSUANT TO THIS
13 SECTION MAY BE RENEWED FOR THE ENSUING TWELVE-MONTH PERIOD
14 UPON THE FILING OF AN APPLICATION CONTAINING ALL REQUIRED RECORDS
15 AND FEES, INCLUDING RENEWAL FEES AS ESTABLISHED BY THE
16 ADMINISTRATOR IN ACCORDANCE WITH SECTION 5-20-107. A RENEWAL
17 APPLICATION MUST BE FILED ON OR BEFORE JANUARY 31 OF THE YEAR IN
18 WHICH THE LICENSE EXPIRES. THE ADMINISTRATOR MAY ESTABLISH A
19 LATE FEE FOR ANY RENEWAL APPLICATIONS SUBMITTED AFTER JANUARY
20 31.

21 (b) IF AN APPLICATION FOR A RENEWAL LICENSE HAS BEEN FILED
22 WITH THE ADMINISTRATOR ON OR BEFORE THE DATE THE LICENSE EXPIRES,
23 THE LICENSE SOUGHT TO BE RENEWED CONTINUES IN EFFECT UNTIL THE
24 ISSUANCE BY THE ADMINISTRATOR OF THE RENEWAL LICENSE APPLIED FOR
25 OR UNTIL THE ADMINISTRATOR HAS NOTIFIED THE LICENSEE IN WRITING OF
26 THE ADMINISTRATOR'S REFUSAL TO ISSUE THE RENEWAL LICENSE
27 TOGETHER WITH THE GROUNDS UPON WHICH THE REFUSAL IS BASED.

28 (c) THE ADMINISTRATOR MAY REFUSE TO ISSUE A RENEWAL
29 LICENSE ON ANY GROUND ON WHICH THE ADMINISTRATOR MAY REFUSE TO
30 ISSUE AN INITIAL LICENSE.

31 (6) **Dishonored check.** IF A CHECK FILED WITH THE
32 ADMINISTRATOR TO PAY A LICENSE, INVESTIGATION, OR RENEWAL FEE
33 UNDER THIS SECTION IS DISHONORED, THE ADMINISTRATOR SHALL
34 SUMMARILY SUSPEND THE LICENSE OR THE RENEWAL LICENSE THAT HAS
35 BEEN ISSUED BUT IS NOT YET EFFECTIVE IN ACCORDANCE WITH SECTION
36 24-4-104 (4); EXCEPT THAT THE FULL INVESTIGATION REQUIREMENT
37 SPECIFIED IN SECTION 24-4-104 (4)(a) DOES NOT APPLY. THE
38 ADMINISTRATOR SHALL GIVE THE LICENSEE NOTICE OF THE SUMMARY
39 SUSPENSION PENDING PROCEEDINGS FOR REVOCATION OR REFUSAL TO
40 RENEW AND AN OPPORTUNITY FOR A HEARING ON THE ACTIONS IN
41 ACCORDANCE WITH SECTION 5-20-113.

42 (7) **Update application information.** AN APPLICANT OR LICENSEE
43 UNDER THIS SECTION SHALL NOTIFY THE ADMINISTRATOR, IN WRITING, OF

1 ANY CHANGE IN THE INFORMATION PROVIDED IN ITS INITIAL APPLICATION
2 FOR A LICENSE OR ITS MOST RECENT RENEWAL APPLICATION FOR A
3 LICENSE, AS APPLICABLE, NOT LATER THAN TEN BUSINESS DAYS AFTER THE
4 OCCURRENCE OF THE EVENT THAT RESULTS IN THE CHANGE.

5 **(8) Incomplete application.** THE ADMINISTRATOR MAY CONSIDER
6 AN APPLICATION FOR A LICENSE UNDER THIS SECTION ABANDONED IF THE
7 APPLICANT FAILS TO RESPOND TO ANY REQUEST FOR INFORMATION
8 REQUIRED UNDER THIS ARTICLE 20 OR ANY RULES ADOPTED PURSUANT TO
9 THIS ARTICLE 20, AS LONG AS THE ADMINISTRATOR NOTIFIES THE
10 APPLICANT, IN WRITING, THAT THE APPLICATION WILL BE CONSIDERED
11 ABANDONED IF THE APPLICANT FAILS TO SUBMIT THE INFORMATION
12 WITHIN SIXTY DAYS AFTER THE DATE ON WHICH THE REQUEST FOR
13 INFORMATION WAS MADE. ABANDONMENT OF AN APPLICATION PURSUANT
14 TO THIS SUBSECTION (8) DOES NOT PRECLUDE THE APPLICANT FROM
15 SUBMITTING A NEW APPLICATION FOR A LICENSE UNDER THIS ARTICLE 20.

16 **(9) Change of license notification.** A LICENSEE UNDER THIS
17 SECTION SHALL NOT ACT WITHIN THIS STATE AS A STUDENT LOAN
18 SERVICER UNDER ANY NAME OR AT ANY PLACE OF BUSINESS OTHER THAN
19 THOSE NAMED IN THE LICENSE. A LICENSEE SHALL GIVE PRIOR WRITTEN
20 NOTICE TO THE ADMINISTRATOR OF A CHANGE OF BUSINESS LOCATION. A
21 LICENSEE SHALL NOT OPERATE MORE THAN ONE PLACE OF BUSINESS UNDER
22 THE SAME LICENSE, BUT THE ADMINISTRATOR MAY ISSUE MORE THAN ONE
23 LICENSE TO A LICENSEE THAT COMPLIES WITH THIS ARTICLE 20 AS TO EACH
24 LICENSE. A LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE.

25 **(10) Records retention - records request.** A STUDENT LOAN
26 SERVICER SHALL MAINTAIN ADEQUATE RECORDS OF EACH STUDENT
27 EDUCATION LOAN TRANSACTION FOR NOT LESS THAN TWO YEARS AFTER
28 THE FINAL PAYMENT ON THE STUDENT EDUCATION LOAN OR THE
29 ASSIGNMENT OF THE STUDENT EDUCATION LOAN, WHICHEVER OCCURS
30 FIRST, OR EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW, A FEDERAL
31 STUDENT EDUCATION LOAN AGREEMENT, OR A CONTRACT BETWEEN THE
32 FEDERAL GOVERNMENT AND A LICENSEE. UPON REQUEST BY THE
33 ADMINISTRATOR, A STUDENT LOAN SERVICER SHALL MAKE THE RECORDS
34 AVAILABLE OR SHALL SEND THE RECORDS TO THE ADMINISTRATOR BY
35 REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY
36 EXPRESS DELIVERY CARRIER THAT PROVIDES A DATED DELIVERY RECEIPT,
37 NOT LATER THAN FIVE BUSINESS DAYS AFTER REQUESTED BY THE
38 ADMINISTRATOR. UPON A LICENSEE'S REQUEST, THE ADMINISTRATOR MAY
39 GRANT THE LICENSEE ADDITIONAL TIME TO MAKE THE RECORDS
40 AVAILABLE OR TO SEND THE RECORDS TO THE ADMINISTRATOR.

41 **(11) License suspension and revocation - refusal to renew.**
42 (a) THE ADMINISTRATOR MAY SUSPEND, REVOKE, ANNUL, LIMIT, MODIFY,
43 OR REFUSE TO RENEW A LICENSE ISSUED PURSUANT TO SUBSECTION (2) OF

1 THIS SECTION OR TAKE ANY OTHER ACTION IN ACCORDANCE WITH THIS
2 ARTICLE 20 IF THE ADMINISTRATOR FINDS ONE OR MORE OF THE
3 FOLLOWING:

4 (I) THE LICENSEE HAS VIOLATED ANY PROVISION OF THIS ARTICLE
5 20 OR ANY RULE LAWFULLY ADOPTED OR ORDER LAWFULLY ISSUED
6 PURSUANT TO AND WITHIN THE AUTHORITY OF THIS ARTICLE 20; OR

7 (II) ANY FACT OR CONDITION EXISTS THAT, IF IT HAD EXISTED AT
8 THE TIME OF THE ORIGINAL APPLICATION FOR THE LICENSE, CLEARLY
9 WOULD HAVE WARRANTED A DENIAL OF THE LICENSE.

10 (b) AN ABATEMENT OF THE LICENSE FEE MAY NOT BE MADE IF THE
11 LICENSE IS SURRENDERED, REVOKED, OR SUSPENDED.

12 **5-20-107. License and investigation fees.** (1) A PERSON
13 APPLYING FOR LICENSURE UNDER SECTION 5-20-106(1) OR (2) SHALL PAY
14 THE FOLLOWING NONREFUNDABLE FEES ESTABLISHED BY THE
15 ADMINISTRATOR:

16 (a) INITIAL LICENSE FEE OF AT LEAST ONE THOUSAND DOLLARS;

17 (b) ANNUAL RENEWAL FEE OF AT LEAST ONE THOUSAND DOLLARS;

18 AND

19 (c) INVESTIGATION FEE.

20 (2) THE ADMINISTRATOR SHALL DETERMINE THE AMOUNT OF THE
21 FEES REQUIRED IN THIS SECTION AND MAY PERIODICALLY REDUCE OR
22 INCREASE THE AMOUNT OF ONE OR MORE OF THE FEES IF NECESSARY
23 PURSUANT TO SECTION 24-75-402 (3) AND (4), TO REDUCE THE
24 UNCOMMITTED RESERVES OF THE FUND CREATED IN SECTION 5-20-104(3).
25 THE FUND IS SUBJECT TO THE MAXIMUM RESERVE ESTABLISHED IN
26 SECTION 24-75-402.

27 **5-20-108. Affirmative acts required of student loan servicers**

28 - **definitions.** (1) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW,
29 FEDERAL STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT
30 BETWEEN THE FEDERAL GOVERNMENT AND A STUDENT LOAN SERVICER, A
31 STUDENT LOAN SERVICER SHALL TAKE THE ACTIONS SPECIFIED IN THIS
32 SECTION.

33 (2) (a) A STUDENT LOAN SERVICER SHALL RESPOND TO A WRITTEN
34 INQUIRY FROM A STUDENT LOAN BORROWER, THE REPRESENTATIVE OF A
35 STUDENT LOAN BORROWER, OR THE STUDENT LOAN OMBUDSPERSON
36 WITHIN FIVE BUSINESS DAYS AFTER RECEIPT OF THE REQUEST AND, WITHIN
37 THIRTY BUSINESS DAYS AFTER RECEIPT OF THE REQUEST, PROVIDE
38 INFORMATION RELATING TO THE REQUEST AND, IF APPLICABLE, THE
39 ACTION THE STUDENT LOAN SERVICER WILL TAKE TO CORRECT THE
40 ACCOUNT OR AN EXPLANATION FOR THE STUDENT LOAN SERVICER'S
41 POSITION THAT THE BORROWER'S ACCOUNT IS CORRECT.

42 (b) THE THIRTY-DAY PERIOD DESCRIBED IN SUBSECTION (2)(a) OF
43 THIS SECTION MAY BE EXTENDED FOR NOT MORE THAN FIFTEEN DAYS IF,

1 BEFORE THE END OF THE THIRTY-DAY PERIOD, THE STUDENT LOAN
2 SERVICER NOTIFIES THE BORROWER, THE BORROWER'S REPRESENTATIVE,
3 OR THE OMBUDSPERSON, AS APPLICABLE, OF THE EXTENSION AND THE
4 REASONS FOR THE DELAY IN RESPONDING.

5 (c) AFTER RECEIPT OF A WRITTEN REQUEST RELATED TO A DISPUTE
6 ON A BORROWER'S PAYMENT ON A STUDENT EDUCATION LOAN, A STUDENT
7 LOAN SERVICER SHALL NOT, FOR THE SIXTY DAYS FOLLOWING RECEIPT,
8 FURNISH ADVERSE INFORMATION TO A CONSUMER REPORTING AGENCY
9 REGARDING A PAYMENT THAT IS THE SUBJECT OF THE WRITTEN INQUIRY.

10 (3) (a) EXCEPT AS PROVIDED IN FEDERAL LAW OR REQUIRED BY A
11 STUDENT LOAN AGREEMENT, A STUDENT LOAN SERVICER SHALL INQUIRE
12 OF A BORROWER HOW TO APPLY AN OVERPAYMENT TO A STUDENT
13 EDUCATION LOAN. A BORROWER'S DIRECTION ON HOW TO APPLY AN
14 OVERPAYMENT TO A STUDENT EDUCATION LOAN STAYS IN EFFECT FOR ANY
15 FUTURE OVERPAYMENTS DURING THE TERM OF A STUDENT EDUCATION
16 LOAN UNTIL THE BORROWER PROVIDES DIFFERENT DIRECTIONS.

17 (b) FOR PURPOSES OF THIS SUBSECTION (3), "OVERPAYMENT"
18 MEANS A PAYMENT ON A STUDENT EDUCATION LOAN IN EXCESS OF THE
19 MONTHLY AMOUNT DUE FROM A BORROWER ON A STUDENT EDUCATION
20 LOAN, ALSO COMMONLY REFERRED TO AS A PREPAYMENT.

21 (4) (a) A STUDENT LOAN SERVICER SHALL APPLY PARTIAL
22 PAYMENTS IN A MANNER THAT MINIMIZES LATE FEES AND NEGATIVE
23 CREDIT REPORTING BY APPLYING PARTIAL PAYMENTS TO SATISFY AS MANY
24 INDIVIDUAL LOAN PAYMENTS AS POSSIBLE ON A BORROWER'S ACCOUNT.

25 (b) FOR PURPOSES OF THIS SUBSECTION (4), "PARTIAL PAYMENT"
26 MEANS A PAYMENT ON A STUDENT LOAN ACCOUNT THAT CONTAINS
27 MULTIPLE INDIVIDUAL LOANS IN AN AMOUNT LESS THAN THE AMOUNT
28 NECESSARY TO SATISFY THE OUTSTANDING PAYMENT DUE ON ALL LOANS
29 IN THE STUDENT LOAN ACCOUNT, ALSO COMMONLY REFERRED TO AS AN
30 UNDERPAYMENT.

31 (5) IN THE EVENT OF THE SALE, ASSIGNMENT, OR OTHER TRANSFER
32 OF THE SERVICING OF A STUDENT EDUCATION LOAN THAT RESULTS IN A
33 CHANGE IN THE IDENTITY OF THE PERSON TO WHOM A STUDENT LOAN
34 BORROWER IS REQUIRED TO SEND PAYMENTS OR DIRECT ANY
35 COMMUNICATION CONCERNING THE STUDENT EDUCATION LOAN, THE
36 FOLLOWING PROVISIONS APPLY:

37 (a) AS A CONDITION OF A SALE, AN ASSIGNMENT, OR ANY OTHER
38 TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN, A STUDENT
39 LOAN SERVICER SHALL REQUIRE THE NEW STUDENT LOAN SERVICER TO
40 HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS AVAILABLE TO A
41 STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE STUDENT
42 EDUCATION LOAN AND PRESERVE THE AVAILABILITY OF THE BENEFITS,
43 INCLUDING ANY BENEFITS FOR WHICH THE STUDENT LOAN BORROWER HAS

1 NOT YET QUALIFIED.

2 (b) A STUDENT LOAN SERVICER SHALL TRANSFER TO THE NEW
3 STUDENT LOAN SERVICER ALL RECORDS REGARDING THE STUDENT LOAN
4 BORROWER, THE ACCOUNT OF THE STUDENT LOAN BORROWER, AND THE
5 STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

6 (c) THE RECORDS REQUIRED UNDER SUBSECTION (5)(b) OF THIS
7 SECTION INCLUDE THE REPAYMENT STATUS OF THE STUDENT LOAN
8 BORROWER AND ANY BENEFITS ASSOCIATED WITH THE STUDENT
9 EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

10 (d) THE STUDENT LOAN SERVICER SHALL COMPLETE THE TRANSFER
11 OF RECORDS REQUIRED UNDER SUBSECTION (5)(b) OF THIS SECTION WITHIN
12 FORTY-FIVE DAYS AFTER THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF
13 THE SERVICING OF A STUDENT EDUCATION LOAN.

14 (e) THE PARTIES SHALL COMPLETE THE SALE, ASSIGNMENT, OR
15 OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN AT
16 LEAST SEVEN DAYS BEFORE THE NEXT PAYMENT ON THE LOAN IS DUE.

17 (6) A STUDENT LOAN SERVICER THAT OBTAINS THE RIGHT TO
18 SERVICE A STUDENT EDUCATION LOAN SHALL ADOPT POLICIES AND
19 PROCEDURES TO VERIFY THAT THE STUDENT LOAN SERVICER HAS
20 RECEIVED ALL RECORDS REGARDING THE STUDENT LOAN BORROWER, THE
21 ACCOUNT OF THE STUDENT LOAN BORROWER, AND THE STUDENT
22 EDUCATION LOAN OF THE STUDENT LOAN BORROWER, INCLUDING THE
23 REPAYMENT STATUS OF THE STUDENT LOAN BORROWER AND ANY
24 BENEFITS ASSOCIATED WITH THE STUDENT EDUCATION LOAN OF THE
25 STUDENT LOAN BORROWER.

26 **5-20-109. Prohibited acts of student loan servicers.** (1) A
27 STUDENT LOAN SERVICER SHALL NOT:

28 (a) DIRECTLY OR INDIRECTLY EMPLOY A SCHEME, A DEVICE, OR
29 ARTIFICE TO DEFRAUD OR MISLEAD STUDENT LOAN BORROWERS;

30 (b) ENGAGE IN AN UNFAIR OR DECEPTIVE PRACTICE TOWARD ANY
31 PERSON OR MISREPRESENT OR OMIT ANY MATERIAL INFORMATION IN
32 CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION LOAN,
33 INCLUDING MISREPRESENTING THE AMOUNT, NATURE, OR TERMS OF ANY
34 FEE OR PAYMENT DUE OR CLAIMED TO BE DUE ON A STUDENT EDUCATION
35 LOAN, THE TERMS AND CONDITIONS OF THE LOAN AGREEMENT, OR THE
36 STUDENT LOAN BORROWER'S OBLIGATIONS UNDER THE LOAN;

37 (c) OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION;

38 (d) MISAPPLY STUDENT EDUCATION LOAN PAYMENTS TO THE
39 OUTSTANDING BALANCE OF A STUDENT EDUCATION LOAN;

40 (e) PROVIDE INACCURATE INFORMATION TO A CONSUMER
41 REPORTING AGENCY;

42 (f) FAIL TO REPORT BOTH THE FAVORABLE AND UNFAVORABLE
43 PAYMENT HISTORY OF A STUDENT LOAN BORROWER TO A CONSUMER

1 REPORTING AGENCY AT LEAST ANNUALLY IF THE STUDENT LOAN SERVICER
2 REGULARLY REPORTS INFORMATION TO A CONSUMER REPORTING AGENCY;

3 (g) REFUSE TO COMMUNICATE WITH AN AUTHORIZED
4 REPRESENTATIVE OF A STUDENT LOAN BORROWER WHO PROVIDES A
5 WRITTEN AUTHORIZATION SIGNED BY THE STUDENT LOAN BORROWER;
6 EXCEPT THAT THE STUDENT LOAN SERVICER MAY ADOPT PROCEDURES
7 REASONABLY RELATED TO VERIFYING THAT THE REPRESENTATIVE IS IN
8 FACT AUTHORIZED TO ACT ON BEHALF OF THE STUDENT LOAN BORROWER;

9 (h) MAKE ANY FALSE STATEMENT OR OMIT ANY MATERIAL FACT
10 IN CONNECTION WITH INFORMATION OR REPORTS FILED WITH A
11 GOVERNMENTAL AGENCY OR IN CONNECTION WITH AN INVESTIGATION
12 CONDUCTED BY THE ADMINISTRATOR OR ANOTHER GOVERNMENTAL
13 AGENCY; OR

14 (i) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, FEDERAL
15 STUDENT LOAN AGREEMENTS, OR A CONTRACT BETWEEN THE FEDERAL
16 GOVERNMENT AND A STUDENT LOAN SERVICER, FAIL TO PROPERLY
17 EVALUATE A STUDENT LOAN BORROWER FOR AN INCOME-BASED OR OTHER
18 STUDENT LOAN REPAYMENT PROGRAM OR FOR ELIGIBILITY FOR A PUBLIC
19 SERVICE LOAN FORGIVENESS PROGRAM BEFORE PLACING THE STUDENT
20 LOAN BORROWER IN FORBEARANCE OR DEFAULT, IF AN INCOME-BASED
21 REPAYMENT OR OTHER PROGRAM IS AVAILABLE TO THE STUDENT LOAN
22 BORROWER.

23 **5-20-110. Powers and duties of the administrator - rules.**

24 (1) THE ADMINISTRATOR MAY CONDUCT INVESTIGATIONS AND
25 EXAMINATIONS AS FOLLOWS:

26 (a) FOR PURPOSES OF INITIAL LICENSING, LICENSE RENEWAL,
27 LICENSE SUSPENSION, LICENSE REVOCATION OR TERMINATION, OR
28 GENERAL OR SPECIFIC INQUIRY OR INVESTIGATION TO DETERMINE
29 COMPLIANCE WITH THIS ARTICLE 20, THE ADMINISTRATOR MAY ACCESS,
30 RECEIVE, AND USE ANY RECORDS OR INFORMATION BELONGING TO A
31 LICENSEE OR PERSON UNDER EXAMINATION, INCLUDING CRIMINAL, CIVIL,
32 AND ADMINISTRATIVE HISTORY INFORMATION; PERSONAL HISTORY AND
33 EXPERIENCE INFORMATION, INCLUDING INDEPENDENT CREDIT REPORTS
34 OBTAINED FROM A CONSUMER REPORTING AGENCY DESCRIBED IN SECTION
35 603 (p) OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC.
36 1681a, AS AMENDED; AND ANY OTHER RECORDS OR INFORMATION THE
37 ADMINISTRATOR CONSIDERS RELEVANT TO THE INQUIRY OR
38 INVESTIGATION REGARDLESS OF THE LOCATION, POSSESSION, CONTROL, OR
39 CUSTODY OF THE RECORDS OR INFORMATION.

40 (b) FOR THE PURPOSES OF INVESTIGATING VIOLATIONS OR
41 COMPLAINTS ARISING UNDER THIS ARTICLE 20 OR FOR THE PURPOSES OF
42 EXAMINATION, THE ADMINISTRATOR MAY REVIEW, INVESTIGATE, OR
43 EXAMINE ANY LICENSEE OR PERSON SUBJECT TO THIS ARTICLE 20 AS OFTEN

1 AS NECESSARY IN ORDER TO CARRY OUT THE PURPOSES OF THIS ARTICLE
2 20. THE ADMINISTRATOR MAY DIRECT, SUBPOENA, OR ORDER THE
3 ATTENDANCE OF AND EXAMINE UNDER OATH ANY PERSON WHOSE
4 TESTIMONY MAY BE REQUIRED ABOUT THE STUDENT EDUCATION LOAN OR
5 THE BUSINESS OR SUBJECT MATTER OF AN EXAMINATION OR
6 INVESTIGATION AND MAY DIRECT, SUBPOENA, OR ORDER THE PERSON TO
7 PRODUCE RECORDS THE ADMINISTRATOR CONSIDERS RELEVANT TO THE
8 INQUIRY.

9 (c) (I) IN MAKING AN EXAMINATION OR INVESTIGATION
10 AUTHORIZED BY THIS SECTION, THE ADMINISTRATOR MAY CONTROL
11 ACCESS TO ANY RECORDS OF THE LICENSEE OR PERSON UNDER
12 EXAMINATION OR INVESTIGATION. THE ADMINISTRATOR MAY TAKE
13 POSSESSION OF THE RECORDS OR PLACE A PERSON IN EXCLUSIVE CHARGE
14 OF THE RECORDS IN THE PLACE WHERE THEY ARE USUALLY KEPT.

15 (II) DURING THE PERIOD OF ADMINISTRATOR CONTROL PURSUANT
16 TO THIS SUBSECTION (1)(C), A PERSON MAY NOT REMOVE OR ATTEMPT TO
17 REMOVE ANY OF THE RECORDS EXCEPT PURSUANT TO A COURT ORDER OR
18 WITH THE CONSENT OF THE ADMINISTRATOR. UNLESS THE ADMINISTRATOR
19 HAS REASONABLE GROUNDS TO BELIEVE THAT THE RECORDS OF THE
20 LICENSEE OR PERSON HAVE BEEN, OR ARE AT RISK OF BEING, ALTERED OR
21 DESTROYED FOR PURPOSES OF CONCEALING A VIOLATION OF THIS ARTICLE
22 20, THE LICENSEE OR OWNER OF THE RECORDS MAY HAVE ACCESS TO THE
23 RECORDS AS NECESSARY TO CONDUCT ITS ORDINARY BUSINESS AFFAIRS.

24 (2) IN ORDER TO CARRY OUT THE PURPOSES OF THIS SECTION, THE
25 ADMINISTRATOR MAY:

26 (a) RETAIN ATTORNEYS, ACCOUNTANTS, OR OTHER PROFESSIONALS
27 AND SPECIALISTS AS EXAMINERS, AUDITORS, OR INVESTIGATORS TO
28 CONDUCT OR ASSIST IN THE CONDUCT OF EXAMINATIONS OR
29 INVESTIGATIONS;

30 (b) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER
31 GOVERNMENT OFFICIALS OR REGULATORY ASSOCIATIONS IN ORDER TO
32 IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN BY SHARING
33 RESOURCES, STANDARDIZED OR UNIFORM METHODS OR PROCEDURES, AND
34 RECORDS OR INFORMATION OBTAINED UNDER THIS SECTION;

35 (c) USE, HIRE, CONTRACT FOR, OR EMPLOY PUBLICLY OR
36 PRIVATELY AVAILABLE ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE
37 TO EXAMINE OR INVESTIGATE THE LICENSEE OR PERSON SUBJECT TO THIS
38 ARTICLE 20;

39 (d) ACCEPT AND RELY ON EXAMINATION OR INVESTIGATION
40 REPORTS MADE BY OTHER GOVERNMENT OFFICIALS WITHIN OR OUTSIDE
41 THIS STATE; AND

42 (e) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED
43 PUBLIC ACCOUNTANT OF THE LICENSEE OR PERSON SUBJECT TO THIS

1 ARTICLE 20 IN THE COURSE OF THAT PART OF THE EXAMINATION COVERING
2 THE SAME GENERAL SUBJECT MATTER AS THE AUDIT AND MAY
3 INCORPORATE THE AUDIT REPORT IN A REPORT OF EXAMINATION, REPORT
4 OF INVESTIGATION, OR OTHER WRITING OF THE ADMINISTRATOR.

5 (3) A PERSON SUBJECT TO INVESTIGATION OR EXAMINATION UNDER
6 THIS SECTION SHALL NOT KNOWINGLY WITHHOLD, ABSTRACT, REMOVE,
7 MUTILATE, OR DESTROY ANY RECORDS OR OTHER INFORMATION RELATING
8 TO INFORMATION REGULATED UNDER THIS ARTICLE 20.

9 (4) WHENEVER IT APPEARS TO THE ADMINISTRATOR THAT A
10 PERSON HAS VIOLATED, IS VIOLATING, OR IS ABOUT TO VIOLATE A
11 PROVISION OF THIS ARTICLE 20 OR A RULE ADOPTED PURSUANT TO THIS
12 ARTICLE 20 OR THAT A LICENSEE OR AN OWNER, DIRECTOR, OFFICER,
13 MEMBER, PARTNER, SHAREHOLDER, TRUSTEE, EMPLOYEE, OR AGENT OF
14 THE LICENSEE HAS COMMITTED FRAUD, ENGAGED IN DISHONEST
15 ACTIVITIES, OR MADE A MISREPRESENTATION, THE ADMINISTRATOR MAY
16 TAKE ACTION AGAINST THE PERSON OR LICENSEE IN ACCORDANCE WITH
17 THIS ARTICLE 20.

18 (5) THE ADMINISTRATOR SHALL ADOPT RULES AS NECESSARY TO
19 IMPLEMENT THIS ARTICLE 20.

20 **5-20-111. Compliance with federal law.** A STUDENT LOAN
21 SERVICER SHALL COMPLY WITH ALL APPLICABLE FEDERAL LAWS AND
22 REGULATIONS RELATING TO SERVICING, INCLUDING THE FEDERAL "TRUTH
23 IN LENDING ACT", 15 U.S.C. SEC. 1601 TO 1667f, AS AMENDED, AND THE
24 REGULATIONS ADOPTED PURSUANT TO THAT ACT. IN ADDITION TO ANY
25 OTHER REMEDIES PROVIDED BY LAW, A VIOLATION OF THAT ACT OR
26 REGULATIONS ADOPTED PURSUANT TO THAT ACT IS A VIOLATION OF THIS
27 ARTICLE 20 AND A BASIS UPON WHICH THE ADMINISTRATOR MAY TAKE
28 ENFORCEMENT ACTION PURSUANT TO THIS ARTICLE 20.

29 **5-20-112. Civil action.** (1) A VIOLATION OF THIS ARTICLE 20 IS A
30 DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF SECTION 6-1-105.

31 (2) A STUDENT LOAN SERVICER WHO FAILS TO COMPLY WITH ANY
32 REQUIREMENT IMPOSED UNDER THIS ARTICLE 20 WITH RESPECT TO A
33 STUDENT LOAN BORROWER IS LIABLE IN AN AMOUNT EQUAL TO THE SUM
34 OF:

35 (a) ANY ACTUAL DAMAGES SUSTAINED BY THE STUDENT LOAN
36 BORROWER AS A RESULT OF THE FAILURE;

37 (b) A MONETARY AWARD EQUAL TO THREE TIMES THE TOTAL
38 AMOUNT THE STUDENT LOAN SERVICER COLLECTED FROM THE STUDENT
39 LOAN BORROWER IN VIOLATION OF THIS ARTICLE 20;

40 (c) PUNITIVE DAMAGES AS THE COURT MAY ALLOW; AND

41 (d) IN THE CASE OF ANY SUCCESSFUL ACTION BY A STUDENT LOAN
42 BORROWER TO ENFORCE THE LIABILITY SET OUT IN THIS SECTION, THE
43 COSTS OF THE ACTION, TOGETHER WITH REASONABLE ATTORNEY FEES AS

1 DETERMINED BY THE COURT.

2 (3) THE REMEDIES PROVIDED IN THIS SECTION ARE NOT THE
3 EXCLUSIVE REMEDIES AVAILABLE TO A STUDENT LOAN BORROWER.

4 **5-20-113. Application of administrative procedures -**
5 **provisions.** EXCEPT AS OTHERWISE PROVIDED, SECTIONS 24-4-102 TO
6 24-4-106 APPLY TO AND GOVERN ALL RULES PROMULGATED AND ALL
7 ADMINISTRATIVE ACTION TAKEN BY THE ADMINISTRATOR PURSUANT TO
8 THIS ARTICLE 20; EXCEPT THAT SECTION 24-4-104 (3) DOES NOT APPLY TO
9 ANY SUCH ACTION.

10 **5-20-114. Administrative enforcement orders.** (1) AFTER
11 NOTICE AND HEARING, THE ADMINISTRATOR MAY ORDER A STUDENT LOAN
12 SERVICER OR A PERSON ACTING IN THE STUDENT LOAN SERVICER'S BEHALF
13 TO CEASE AND DESIST FROM ENGAGING IN VIOLATIONS OF THIS ARTICLE 20
14 OR ANY RULE LAWFULLY ADOPTED OR ORDER LAWFULLY ISSUED
15 PURSUANT TO THIS ARTICLE 20. THE ORDER ISSUED BY THE
16 ADMINISTRATOR MAY ALSO REQUIRE THE STUDENT LOAN SERVICER OR
17 PERSON TO MAKE REFUNDS TO PERSONS OF UNLAWFUL CHARGES UNDER
18 THIS ARTICLE 20 AND AN ADMINISTRATIVE PENALTY OF UP TO ONE
19 THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION, ALL OR PART OF
20 WHICH MAY BE SPECIFICALLY DESIGNATED FOR CONSUMER AND CREDITOR
21 EDUCATIONAL PURPOSES.

22 (2) A RESPONDENT AGGRIEVED BY AN ORDER OF THE
23 ADMINISTRATOR MAY OBTAIN JUDICIAL REVIEW OF THE ORDER IN THE
24 COLORADO COURT OF APPEALS. THE ADMINISTRATOR MAY OBTAIN AN
25 ORDER OF THE COURT FOR ENFORCEMENT OF THE ADMINISTRATOR'S ORDER
26 IN THE DISTRICT COURT UNDER SECTION 24-4-106. ALL PROCEEDINGS
27 UNDER THIS SECTION ARE GOVERNED BY SECTIONS 24-4-105 AND
28 24-4-106.

29 **5-20-115. Assurance of discontinuance.** IF IT IS CLAIMED THAT
30 A PERSON HAS VIOLATED THIS ARTICLE 20, THE ADMINISTRATOR MAY
31 ACCEPT AN ASSURANCE IN WRITING THAT THE PERSON WILL NOT ENGAGE
32 IN THE CONDUCT IN THE FUTURE. THE ASSURANCE MAY ALSO REQUIRE THE
33 PERSON TO MAKE REFUNDS TO PERSONS OF UNLAWFUL CHARGES UNDER
34 THIS ARTICLE 20, PAY A PENALTY AUTHORIZED IN SECTION 5-20-114 (1),
35 ALL OR PART OF WHICH MAY BE SPECIFICALLY DESIGNATED FOR
36 CONSUMER AND CREDITOR EDUCATIONAL PURPOSES, AND REIMBURSE THE
37 ADMINISTRATOR FOR THE ADMINISTRATOR'S REASONABLE COSTS
38 INCURRED IN INVESTIGATING THE CONDUCT. IF A PERSON GIVING AN
39 ASSURANCE OF DISCONTINUANCE FAILS TO COMPLY WITH ITS TERMS, THE
40 ASSURANCE IS EVIDENCE THAT PRIOR TO THE ASSURANCE THE PERSON
41 ENGAGED IN THE CONDUCT DESCRIBED IN THE ASSURANCE.

42 **5-20-116. Injunctions.** THE ADMINISTRATOR MAY BRING A CIVIL
43 ACTION TO RESTRAIN A PERSON FROM VIOLATING THIS ARTICLE 20 OR

1 RULES PROMULGATED PURSUANT TO THIS ARTICLE 20 AND FOR OTHER
2 APPROPRIATE RELIEF, INCLUDING SUCH ORDERS OR JUDGMENTS AS MAY BE
3 NECESSARY TO COMPLETELY COMPENSATE OR RESTORE ANY PERSON
4 AFFECTED BY THE VIOLATION TO THE PERSON'S ORIGINAL POSITION. THE
5 ADMINISTRATOR MAY ALSO APPLY FOR A TEMPORARY RESTRAINING ORDER
6 OR A PRELIMINARY INJUNCTION AGAINST A RESPONDENT PENDING FINAL
7 DETERMINATION OF PROCEEDINGS. NO BOND OR OTHER SECURITY IS
8 REQUIRED OF THE ADMINISTRATOR BEFORE RELIEF UNDER THIS SECTION
9 MAY BE GRANTED.

10 **5-20-117. Civil actions by the administrator.** THE
11 ADMINISTRATOR MAY BRING A CIVIL ACTION AGAINST A STUDENT LOAN
12 SERVICER FOR ANY VIOLATION OF THIS ARTICLE 20. AN ACTION MAY
13 RELATE TO TRANSACTIONS WITH MORE THAN ONE PERSON. THE COURT
14 MAY ORDER A STUDENT LOAN SERVICER TO REFUND TO A PERSON ANY
15 CHARGES COLLECTED IN VIOLATION OF THIS ARTICLE 20 AND MAY ALSO
16 ASSESS CIVIL PENALTIES AGAINST THE STUDENT LOAN SERVICER AS SET
17 FORTH IN SECTION 5-20-112 (2). IF THE ADMINISTRATOR PREVAILS IN AN
18 ACTION BROUGHT UNDER THIS SECTION, THE ADMINISTRATOR MAY
19 RECOVER REASONABLE COSTS IN INVESTIGATING AND BRINGING THE
20 ACTION AND MAY RECOVER REASONABLE ATTORNEY FEES.

21 **5-20-118. Limitations.** NOTWITHSTANDING ARTICLE 80 OF TITLE
22 13, ALL ACTIONS BROUGHT UNDER THIS ARTICLE 20 MUST BE COMMENCED
23 WITHIN FOUR YEARS AFTER THE DATE ON WHICH ANY VIOLATION OF THIS
24 ARTICLE 20 OCCURRED OR THE DATE ON WHICH THE LAST IN A SERIES OF
25 SUCH ACTS OR PRACTICES OCCURRED OR WITHIN FOUR YEARS AFTER THE
26 PLAINTIFF DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE
27 SHOULD HAVE DISCOVERED THE OCCURRENCE OF A VIOLATION OF THIS
28 ARTICLE 20; EXCEPT THAT THE PERIOD OF LIMITATION PROVIDED IN THIS
29 SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE PLAINTIFF
30 PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS CAUSED
31 BY THE DEFENDANT ENGAGING IN CONDUCT CALCULATED TO INDUCE THE
32 PLAINTIFF TO REFRAIN FROM OR POSTPONE THE COMMENCEMENT OF THE
33 ACTION.

34 **5-20-119. Confidential information.** (1) THE ADMINISTRATOR
35 SHALL NOT MAKE PUBLIC THE NAME OR IDENTITY OF A PERSON WHOSE
36 ACTS OR CONDUCT THE ADMINISTRATOR INVESTIGATES OR EXAMINES
37 PURSUANT TO THIS ARTICLE 20 OR THE FACTS DISCLOSED IN THE
38 INVESTIGATION OR EXAMINATION.

39 (2) THE ADMINISTRATOR MAY DISCLOSE LICENSE APPLICATION
40 AND RENEWAL RECORDS PROVIDED TO THE ADMINISTRATOR AND OTHER
41 CONTENTS OF LICENSE RECORDS MAINTAINED PURSUANT TO THIS ARTICLE
42 20, BUT THE ADMINISTRATOR SHALL NOT MAKE PUBLIC THE CONFIDENTIAL
43 INFORMATION CONTAINED IN THE RECORDS.

1 (3) THE RESTRICTIONS ON THE DISCLOSURE OF INFORMATION IN
2 SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO DISCLOSURES
3 BY THE ADMINISTRATOR IN ACTIONS OR ADMINISTRATIVE ENFORCEMENT
4 PROCEEDINGS PURSUANT TO THIS ARTICLE 20.

5 **SECTION 3.** In Colorado Revised Statutes, 6-1-105, **add** (1)(lll)
6 as follows:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

10 (III) VIOLATES ARTICLE 20 OF TITLE 5.

11 **SECTION 4.** In Colorado Revised Statutes, 13-4-102, add
12 (2)(mm) as follows:

13 **13-4-102. Jurisdiction.** (2) The court of appeals has initial
14 jurisdiction to:

15 (mm) REVIEW FINAL DECISIONS OR ORDERS OF THE
16 ADMINISTRATOR AS PROVIDED IN ARTICLE 20 OF TITLE 5.

26 (2) This act applies to conduct occurring on or after the applicable
27 effective date of this act.".

*** *** *** *** ***