

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0175.01 Thomas Morris x4218

HOUSE BILL 18-1415

HOUSE SPONSORSHIP

Winter,

SENATE SPONSORSHIP

Fenberg,

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF STUDENT LOAN SERVICERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires an entity that services a student education loan to be licensed by the administrator of the "Uniform Consumer Credit Code". "Servicing" means receiving a scheduled periodic payment from a student loan borrower, applying the payments of principal and interest with respect to the amounts received from a student loan borrower, and similar administrative services.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

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

4 (a) Finds that:

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

11 (II) According to the Institute for College Access and Success,
12 53% of Colorado's students graduate with student loan debt averaging
13 \$26,520. There are approximately 761,000 student loan borrowers in
14 Colorado, and the total student loan debt outstanding for Coloradans is
15 approximately \$19 billion.

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

20 (b) Determines that:

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

27 (II) The CFPB released a report in September of 2015 that found

1 that student loan borrowers encounter servicers that discourage
2 borrower-friendly alternative payment plans, fail to respond to questions
3 and payment processing errors, and fail to provide sufficient information
4 to borrowers regarding payments, benefits, interest rates, and other
5 charges; and

6 (III) A report released in March of 2017 found that Coloradans
7 have complained to the CFPB 124 times about their student loan servicers
8 in 2017 alone, and that nationally, complaints against servicers had
9 increased by 429% compared to data collected in 2016; and

10 (c) Declares that the general assembly intends by the enactment
11 of this act to promote all of the following:

12 (I) Meaningful access to federal affordable repayment and loan
13 forgiveness benefits;

14 (II) Reliable information about student loans and loan repayment
15 options; and

16 (III) Quality customer service and fair treatment.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 5-2-311 as
18 follows:

19 **5-2-311. Student loan servicers - definitions - rules.**

20 (1) **Definitions.** AS USED IN THIS SECTION AND WITH REGARD TO STUDENT
21 EDUCATION LOANS, STUDENT LOAN SERVICERS, AND STUDENT LOAN
22 BORROWERS ONLY:

23 (a) "SERVICING":

24 (I) MEANS:

25 (A) RECEIVING A SCHEDULED PERIODIC PAYMENT FROM A
26 STUDENT LOAN BORROWER PURSUANT TO THE TERMS OF A STUDENT
27 EDUCATION LOAN;

1 (B) APPLYING THE PAYMENTS OF PRINCIPAL, INTEREST, AND SUCH
2 OTHER PAYMENTS WITH RESPECT TO THE AMOUNTS RECEIVED FROM A
3 STUDENT LOAN BORROWER AS MAY BE REQUIRED PURSUANT TO THE
4 TERMS OF A STUDENT EDUCATION LOAN;

5 (C) TAKING ASSIGNMENTS OF AND UNDERTAKING DIRECT
6 COLLECTION OF PAYMENTS FROM OR ENFORCEMENT OF RIGHTS AGAINST
7 CONSUMERS ARISING FROM STUDENT EDUCATION LOANS; AND

8 (D) PERFORMING OTHER ADMINISTRATIVE SERVICES WITH RESPECT
9 TO A STUDENT EDUCATION LOAN;

10 (II) DOES NOT INCLUDE ORIGINATING OR MAKING ANY TYPE OF
11 LOAN.

12 (b) "STUDENT EDUCATION LOAN" MEANS A CONSUMER CREDIT
13 TRANSACTION THAT IS NOT, BUT FOR THIS SECTION, A CONSUMER CREDIT
14 TRANSACTION FOR WHICH A LICENSE IS REQUIRED PURSUANT TO SECTION
15 5-2-301, AND THAT IS USED TO FINANCE EDUCATION OR OTHER
16 SCHOOL-RELATED EXPENSES; EXCEPT THAT, FOR PURPOSES OF
17 IMPLEMENTING THIS SECTION IN CONNECTION WITH OTHER PROVISIONS OF
18 THIS PART 3 ONLY, A CONSUMER CREDIT TRANSACTION INCLUDES THOSE
19 TRANSACTIONS IN WHICH THE PRINCIPAL OR THE AMOUNT FINANCED
20 EXCEEDS SEVENTY-FIVE THOUSAND DOLLARS.

21 (c) "STUDENT LOAN BORROWER" MEANS:

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

24 (II) AN INDIVIDUAL WHO SHARES RESPONSIBILITY WITH THE
25 INDIVIDUAL SPECIFIED IN SUBSECTION (1)(c)(I) OF THIS SECTION FOR
26 REPAYING THE STUDENT EDUCATION LOAN.

27 (d) "STUDENT LOAN SERVICER" MEANS A PERSON, WHEREVER

1 LOCATED, RESPONSIBLE FOR THE SERVICING OF A STUDENT EDUCATION
2 LOAN TO A STUDENT LOAN BORROWER.

3 (e) "SUPERVISED LENDER", FOR THE PURPOSES OF IMPLEMENTING
4 THIS SECTION IN CONNECTION WITH OTHER PROVISIONS OF THIS PART 3
5 ONLY AND WITH REGARD TO THE SERVICING OF A STUDENT EDUCATION
6 LOAN BY A STUDENT LOAN SERVICER ONLY, INCLUDES A STUDENT LOAN
7 SERVICER.

8 (2) **Licensing of student loan servicers.** (a) (I) AN ENTITY SHALL
9 NOT ACT AS A STUDENT LOAN SERVICER, DIRECTLY OR INDIRECTLY,
10 WITHOUT FIRST OBTAINING A SUPERVISED LENDER LICENSE FROM THE
11 ADMINISTRATOR PURSUANT TO THIS PART 3, UNLESS THE ENTITY IS
12 EXEMPT FROM LICENSURE PURSUANT TO SUBSECTION (2)(a)(II) OF THIS
13 SECTION.

14 (II) THE FOLLOWING ENTITIES ARE EXEMPT FROM SUBSECTION
15 (2)(a)(I) OF THIS SECTION:

16 (A) A STATE OR FEDERALLY CHARTERED BANK, SAVINGS BANK,
17 SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION;

18 (B) A WHOLLY OWNED SUBSIDIARY OF ANY BANK OR CREDIT
19 UNION; AND

20 (C) AN OPERATING SUBSIDIARY IN WHICH EACH OWNER OF THE
21 OPERATING SUBSIDIARY IS WHOLLY OWNED BY THE SAME BANK OR CREDIT
22 UNION.

23 (b) ALL OF THE PROVISIONS OF THIS PART 3 THAT APPLY TO THE
24 MAKING OF A SUPERVISED LOAN APPLY EQUALLY TO THE SERVICING OF A
25 STUDENT LOAN BY A STUDENT LOAN SERVICER AS IF THE STUDENT LOAN
26 SERVICER WERE A SUPERVISED LENDER SERVICING A SUPERVISED LOAN.

27 (3) **Rules.** THE ADMINISTRATOR SHALL ADOPT RULES AS

1 NECESSARY TO IMPLEMENT THIS SECTION.

2 **SECTION 3.** In Colorado Revised Statutes, 5-1-202, **amend**
3 (1)(f) as follows:

4 **5-1-202. Exclusions.** (1) This code does not apply to:

5 (f) Loans made, originated, disbursed, serviced, or guaranteed by
6 an agency, instrumentality, or political subdivision of the state pursuant
7 to article 3.1 of title 23; ~~C.R.S.~~ EXCEPT THAT NOTHING IN THIS
8 SUBSECTION (1)(f) AFFECTS THE ADMINISTRATOR'S ABILITY TO ENFORCE
9 THE CODE IN COMPLIANCE WITH SECTION 5-2-311 WITH REGARD TO THE
10 SERVICING BY A NONGOVERNMENTAL ENTITY OF A LOAN ORIGINATED,
11 DISBURSED, OR GUARANTEED BY AN AGENCY, INSTRUMENTALITY, OR
12 POLITICAL SUBDIVISION OF THE STATE.

13 **SECTION 4. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect September 1, 2018; except that,
15 if a referendum petition is filed pursuant to section 1 (3) of article V of
16 the state constitution against this act or an item, section, or part of this act
17 within the ninety-day period after final adjournment of the general
18 assembly, then the act, item, section, or part will not take effect unless
19 approved by the people at the general election to be held in November
20 2018 and, in such case, will take effect on the date of the official
21 declaration of the vote thereon by the governor.

22 (2) This act applies to conduct occurring on or after the applicable
23 effective date of this act.