

CHAPTER 360

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 23-248

BY SENATOR(S) Rodriguez and Liston, Cutter, Exum, Hinrichsen, Priola, Winter F.;
also REPRESENTATIVE(S) Mabrey and Weinberg, Amabile, Boesenecker, Brown, English, Froelich, Herod, Jodeh, Joseph,
Kipp, Lindsay, Lynch, Michaelson Jenet, Parenti, Ricks, Sirota, Velasco, Vigil.

AN ACT**CONCERNING CONSUMER PROTECTION IN CERTAIN CREDIT TRANSACTIONS.**

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

SECTION 1. In Colorado Revised Statutes, 5-2-301, **amend** (1) introductory portion and (1)(b) as follows:

5-2-301. Authority to make supervised loans. (1) Unless a person is a supervised financial organization or has first obtained a license from the administrator authorizing ~~him or her~~ **THE PERSON** to make supervised loans, ~~he or she~~ **THE PERSON** shall not engage in the business of:

(b) Taking assignments of and undertaking direct collection of payments from or enforcement of rights against consumers arising from supervised loans, **INCLUDING SERVICING SUPERVISED LOANS**; except that a person who is licensed by the administrator as a collection agency pursuant to article 16 of this title 5 or is licensed by the Colorado supreme court to practice law, and who takes assignment of supervised loans only after such loans are in default, is not required to obtain a supervised lender license to engage in the activities described in this subsection (1)(b).

SECTION 2. In Colorado Revised Statutes, 5-2-302, **amend** (8); and **add** (10) and (11) as follows:

5-2-302. License to make supervised loans - consumer credit unit cash fund - rules - definition - repeal. (8) Each license shall be renewed by payment of a nonrefundable license fee and the filing of a renewal form. The fee and renewal form ~~shall be~~ **ARE** due each ~~January 31.~~ ~~If a licensee fails to pay the prescribed fee~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~on or before March 1, it shall pay a penalty of five dollars per day per license from March 2 to the date the payment is postmarked. However, JULY 1. If a licensee fails to FILE THE RENEWAL FORM AND pay the appropriate renewal and penalty fees by March 15 JULY 1, its license shall automatically expire EXPIRES.~~

(10) (a) LICENSES ISSUED BY THE ADMINISTRATOR IN 2023 EXPIRE ON JULY 1, 2024. THE ADMINISTRATOR MAY ASSESS AN ADDITIONAL FEE IN JANUARY 2024 TO COVER THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS SECTION UNTIL NOTIFICATION RENEWALS ARE DUE JULY 1, 2024.

(b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2026.

(11) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE CONSUMER CREDIT UNIT CASH FUND, REFERRED TO IN THIS SUBSECTION (11) AS THE "FUND". THE FUND CONSISTS OF ALL FEES COLLECTED PURSUANT TO THIS ARTICLE 2 AND ARTICLES 6, 10, 16, 19, AND 21 OF THIS TITLE 5 ON AND AFTER JULY 1, 2024. THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY TO BE EXPENDED BY THE ADMINISTRATOR TO PAY FOR THE DIRECT AND INDIRECT COSTS OF THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE 2 AND ARTICLES 6, 10, 16, 19, AND 21 OF THIS TITLE 5.

(b) THE ADMINISTRATOR MAY ESTABLISH A FEE SCHEDULE FOR THE PAYMENT AND COLLECTION OF FEES DESCRIBED IN THIS ARTICLE 2 AND ARTICLES 6, 10, 16, 19, AND 21 OF THIS TITLE 5.

(c) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND IS CREDITED TO THE FUND. AT THE END OF EACH FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(d) IN ACCORDANCE WITH SECTION 24-75-402 (3)(c), THE ALTERNATIVE MAXIMUM RESERVE FOR THE FUND IS ONE-THIRD OF THE AMOUNT EXPENDED FROM THE FUND DURING EACH FISCAL YEAR.

(e) ON AND AFTER JULY 1, 2024, THE ADMINISTRATOR SHALL TRANSFER ALL FEES COLLECTED UNDER THIS ARTICLE 2 AND UNDER ARTICLES 10, 16, 19, AND 21 OF THIS TITLE 5 TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE FUND.

SECTION 3. In Colorado Revised Statutes, 5-6-201, **amend** (3) as follows:

5-6-201. Applicability. (3) ~~Sections 5-6-203 (5) and 5-6-204~~ SECTION 5-6-204 of this part 2 ~~apply~~ APPLIES to all fees collected under this code.

SECTION 4. In Colorado Revised Statutes, 5-6-202, **amend** (1) introductory portion and (2) as follows:

5-6-202. Notification. (1) Persons subject to this part 2 shall file notification with, and pay the fee prescribed in section 5-6-203 to, the administrator within thirty days after commencing business in this state and, thereafter, on or before ~~January~~ ~~31~~ JULY 1 of each year. The notification ~~shall~~ MUST state:

(2) If information in a notification becomes inaccurate after filing, no further notification is required until the following ~~January 31~~ NOTIFICATION.

SECTION 5. In Colorado Revised Statutes, 5-6-203, **amend** (1), (3), and (4); and **repeal** (5) as follows:

5-6-203. Fees - repeal. (1) (a) A person required to file notification shall, with the first notification ~~and on or before January 31 of~~ JULY 1, 2024, AND ON OR BEFORE JULY 1 each year thereafter, pay to the administrator a nonrefundable annual notification fee. The administrator ~~is entitled to~~ MAY examine the loans, business, and records of such a person without issuance of a subpoena.

(b) (I) NOTIFICATIONS ISSUED BY THE ADMINISTRATOR IN CALENDAR YEAR 2023 EXPIRE ON JULY 1, 2024. THE ADMINISTRATOR MAY ASSESS AN ADDITIONAL NOTIFICATION FEE IN JANUARY 2024 TO COVER THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS SECTION UNTIL NOTIFICATION RENEWALS ARE DUE JULY 1, 2024.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

(3) (a) Persons required to file notification who are assignees of consumer credit sales or consumer leases shall pay an additional nonrefundable annual volume fee on or before ~~January 31 of each year for each~~ JULY 1, 2024, AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER, FOR one hundred thousand dollars, or part thereof, of the unpaid balances at the time of the assignment of obligations arising from consumer credit sales or consumer leases made in this state and taken by assignment during the preceding calendar year. PERSONS REQUIRED TO FILE NOTIFICATION SHALL REPORT ANY SUCH VOLUME TO THE ADMINISTRATOR ON OR BEFORE MARCH 1 IN THE FORM AND MANNER DETERMINED BY THE ADMINISTRATOR. THE ADMINISTRATOR MAY CHARGE A LATE FEE FOR FAILURE TO REPORT SUCH A VOLUME.

(b) (I) A PERSON THAT PAYS A VOLUME FEE IN CALENDAR YEAR 2023 IS NOT REQUIRED TO PAY A RENEWAL OF THE VOLUME FEE UNTIL JULY 1, 2024. THE ADMINISTRATOR MAY ASSESS AN ADDITIONAL VOLUME FEE IN JANUARY 2024 TO COVER THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS SECTION UNTIL VOLUME FEE RENEWALS ARE DUE ON JULY 1, 2024.

(II) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

(4) THE ADMINISTRATOR SHALL IMPOSE a penalty of five dollars per day ~~shall be imposed~~ on any person ~~failing~~ THAT FAILS to comply with this section. ~~except that, if the fees required by this section are paid on or before March 1 of each year, no penalty shall be imposed.~~ If a person required to file notification and pay a notification fee fails to do so, the consumer ~~shall have~~ HAS no obligation to pay the finance charge due under the consumer credit transaction, and any finance charges paid shall be refunded to the consumer. In addition, if the administrator examines the loans, business, or records of such person, the person shall pay the reasonable and necessary examination expenses of the administrator.

(5) (a) ~~The administrator shall determine the amount of the notification, volume, and license fees required in this section and in section 5-2-302 and may periodically~~

~~reduce or increase the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3) and (4), C.R.S., to reduce the uncommitted reserves of the uniform consumer credit code cash fund created in section 5-6-204 to which all or any portion of one or more of the fees is credited.~~

~~(b) In accordance with section 24-75-402 (3)(c), C.R.S., for fiscal years prior to July 1, 2018, the uniform consumer credit code cash fund is subject to an alternative maximum reserve of one-third of the amount expended during the previous fiscal year. For fiscal years that begin on or after July 1, 2018, the fund is subject to the maximum reserve established in section 24-75-402, C.R.S.~~

SECTION 6. In Colorado Revised Statutes, 5-6-204, **amend** (1); and **add** (1.5) as follows:

5-6-204. Cash fund created - repeal. (1) (a) All fees collected under this code and under article 10 of this title 5 PRIOR TO JULY 1, 2024, shall be credited to the uniform consumer credit code cash fund, which is created and referred to in this section as the "fund", and all money credited to the fund shall be used for the administration and enforcement of this code, article 10 of this title 5, and article 19 of this title 5. Interest earned on the fund shall be credited to the fund. The general assembly shall make annual appropriations out of the fund for the administration and enforcement of this code, article 10 of this title 5, and article 19 of this title 5; except that expenditures by the administrator for consumer and creditor education resulting from the penalties provided in sections 5-2-303 (7)(f), 5-6-109 (1), 5-6-110, and 5-6-114 (2) shall not require appropriation by the general assembly if the expenditures do not exceed twenty-five thousand dollars per fiscal year and do not include the hiring of any full-time equivalents.

(b) ON SEPTEMBER 30, 2024, THE STATE TREASURER SHALL TRANSFER THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE UNIFORM CONSUMER CREDIT CODE CASH FUND TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

(c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2026.

(1.5) ON AND AFTER JULY 1, 2024, THE STATE TREASURER SHALL CREDIT ALL FEES COLLECTED UNDER THIS ARTICLE 6 TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

SECTION 7. In Colorado Revised Statutes, 5-10-804, **amend** (1)(b) as follows:

5-10-804. Notification by lessors - contents - repeal. (1) A lessor shall file a notification as prescribed in subsection (2) of this section with the administrator:

(b) (I) Before ~~February 1~~ JULY 1 in each subsequent year that the lessor solicits or enters into a rental purchase agreement subject to this ~~article~~ ARTICLE 10.

(II) (A) NOTIFICATIONS ISSUED BY THE ADMINISTRATOR IN CALENDAR YEAR 2023 EXPIRE ON JULY 1, 2024.

(B) THIS SUBSECTION (1)(b)(II) IS REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 8. In Colorado Revised Statutes, 5-10-805, **amend** (1); **repeal** (3); and **add** (4) as follows:

5-10-805. Fees. (1) A lessor required to file a notification with the administrator under section 5-10-804 shall pay to the administrator the following fees:

(a) ~~Fifty dollars~~ A FEE IN AN AMOUNT TO BE ESTABLISHED BY THE ADMINISTRATOR for each address listed in section 5-10-804 (2)(c), paid at the time of the filing of the initial notification with the administrator;

(b) ~~Twenty-five dollars~~ A FEE IN AN AMOUNT TO BE ESTABLISHED BY THE ADMINISTRATOR for each address listed in section 5-10-804 (2)(c), paid at the time of the filing of each annual notification subsequently filed with the administrator.

(3) ~~Notwithstanding the amount specified for any fee in this section, the administrator by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the administrator by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.~~

(4) ON AND AFTER JULY 1, 2024, THE STATE TREASURER SHALL CREDIT ALL FEES COLLECTED UNDER THIS ARTICLE 10 TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

SECTION 9. In Colorado Revised Statutes, 5-16-119, **amend** (6) as follows:

5-16-119. Collection agency license - requirements - application - fee - expiration - definition. (6) (a) A collection agency must obtain a license for its principal place of business, but its branch offices, if any, need not obtain separate licenses. A collection agency with branch offices must notify the administrator in writing of the location of each branch office within thirty days after the branch office commences business.

(b) SUBJECT TO RULES ADOPTED BY THE ADMINISTRATOR, NOTHING IN SUBSECTION (6)(a) OF THIS SECTION PROHIBITS A LICENSEE FROM PERMITTING ITS EMPLOYEES TO WORK FROM A REMOTE LOCATION SO LONG AS THE LICENSEE:

(I) ENSURES THAT NO IN-PERSON CUSTOMER INTERACTIONS ARE CONDUCTED AT THE REMOTE LOCATION AND DOES NOT DESIGNATE THE REMOTE LOCATION TO CONSUMERS AS A BUSINESS LOCATION;

(II) MAINTAINS APPROPRIATE SAFEGUARDS FOR LICENSEE AND CONSUMER DATA, INFORMATION, AND RECORDS, INCLUDING THE USE OF SECURE VIRTUAL PRIVATE NETWORKS, ALSO KNOWN AS "VPNS", WHERE APPROPRIATE;

(III) EMPLOYS APPROPRIATE RISK-BASED MONITORING AND OVERSIGHT PROCESSES OF WORK PERFORMED FROM A REMOTE LOCATION AND MAINTAINS RECORDS OF THE MONITORING AND OVERSIGHT PROCESSES;

(IV) ENSURES CONSUMER INFORMATION AND RECORDS ARE NOT MAINTAINED AT A REMOTE LOCATION;

(V) ENSURES CONSUMER AND LICENSEE INFORMATION AND RECORDS REMAIN ACCESSIBLE AND AVAILABLE FOR REGULATORY OVERSIGHT AND EXAMINATION; AND

(VI) PROVIDES APPROPRIATE EMPLOYEE TRAINING TO ENSURE EMPLOYEES WORKING FROM A REMOTE LOCATION KEEP ALL CONVERSATIONS ABOUT AND WITH CONSUMERS THAT ARE CONDUCTED FROM THE REMOTE LOCATION CONFIDENTIAL, AS IF CONDUCTED FROM A COMMERCIAL LOCATION, AND TO ENSURE THAT EMPLOYEES WORKING AT A REMOTE LOCATION WORK IN AN ENVIRONMENT THAT IS CONDUCIVE AND APPROPRIATE TO ENSURING PRIVACY AND CONFIDENTIAL CONVERSATIONS.

(c) AS USED IN THIS SUBSECTION (6), "REMOTE LOCATION" MEANS A PRIVATE RESIDENCE OF AN EMPLOYEE OF A LICENSEE OR ANOTHER LOCATION SELECTED BY THE EMPLOYEE AND APPROVED BY THE LICENSEE.

SECTION 10. In Colorado Revised Statutes, 5-16-134, **amend** (1); and **add** (1.5) as follows:

5-16-134. Disposition of fees and fines - repeal. (1) (a) All revenue, except fines, collected pursuant to this article 16 BEFORE JULY 1, 2024, shall be collected by the administrator and transmitted to the state treasurer, who shall credit the ~~same~~ MONEY to the collection agency cash fund, which fund is ~~hereby~~ created and referred to in this section as the "fund". The general assembly shall make annual appropriations from the fund for the uses and purposes of this article 16. All revenue credited to the fund, including earned interest, shall be used for the administration and enforcement of this article 16.

~~(b) Notwithstanding any provision of subsection (1)(a) of this section to the contrary, on March 27, 2002, the state treasurer shall deduct four hundred sixty-two thousand dollars from the fund and transfer such sum to the general fund.~~

~~(c) Notwithstanding any provision of subsection (1)(a) of this section to the contrary, on March 5, 2003, the state treasurer shall deduct one hundred twenty thousand dollars from the fund and transfer such sum to the general fund.~~

(b) ON SEPTEMBER 30, 2024, OR AS SOON AS PRACTICABLE AFTER THAT DATE, THE STATE TREASURER SHALL TRANSFER THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE COLLECTION AGENCY CASH FUND TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

(c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2026.

(1.5) ON AND AFTER JULY 1, 2024, THE STATE TREASURER SHALL CREDIT ALL FEES COLLECTED UNDER THIS ARTICLE 16 TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

SECTION 11. In Colorado Revised Statutes, 5-16-127, **add** (13) as follows:

5-16-127. Complaint - investigations - powers of administrator - sanctions.

(13) THE ADMINISTRATOR SHALL NOT MAKE PUBLIC THE NAME OR IDENTITY OF A PERSON WHOSE ACTS OR CONDUCT THE ADMINISTRATOR INVESTIGATES PURSUANT TO THIS SECTION OR THE FACTS DISCLOSED IN THE INVESTIGATION. THIS SUBSECTION (13) DOES NOT APPLY TO DISCLOSURES BY THE ADMINISTRATOR IN ACTIONS OR ADMINISTRATIVE ENFORCEMENT PROCEEDINGS PURSUANT TO THIS ARTICLE 16.

SECTION 12. In Colorado Revised Statutes, 5-19-205, **amend** (b)(1) as follows:

5-19-205. Application for registration - form, fee, and accompanying documents - repeal. (b) An application for registration as a provider shall be accompanied by:

(1) The fee established by the administrator. The administrator shall transmit the fee to the state treasurer, who shall:

(A) (i) FOR FEES COLLECTED PRIOR TO JULY 1, 2024, deposit ~~it~~ THE MONEY in the uniform consumer credit code cash fund created in section 5-6-204 (1).

(ii) THIS SUBSECTION (b)(1)(A) IS REPEALED, EFFECTIVE JULY 1, 2026.

(B) FOR FEES COLLECTED ON AND AFTER JULY 1, 2024, DEPOSIT THE MONEY IN THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

SECTION 13. In Colorado Revised Statutes, **add** 5-19-206.7 as follows:

5-19-206.7. Remote work authorized - definition. (1) SUBJECT TO RULES ADOPTED BY THE ADMINISTRATOR, NOTHING IN THIS PART 2 PROHIBITS A REGISTERED PROVIDER FROM PERMITTING ITS EMPLOYEES TO WORK FROM A REMOTE LOCATION SO LONG AS THE REGISTERED PROVIDER:

(a) ENSURES THAT NO IN-PERSON CUSTOMER INTERACTIONS ARE CONDUCTED AT THE REMOTE LOCATION AND DOES NOT DESIGNATE THE REMOTE LOCATION TO CONSUMERS AS A BUSINESS LOCATION;

(b) MAINTAINS APPROPRIATE SAFEGUARDS FOR REGISTERED PROVIDER AND CONSUMER DATA, INFORMATION, AND RECORDS, INCLUDING THE USE OF SECURE VIRTUAL PRIVATE NETWORKS, ALSO KNOWN AS "VPNS", WHERE APPROPRIATE;

(c) EMPLOYS APPROPRIATE RISK-BASED MONITORING AND OVERSIGHT PROCESSES OF WORK PERFORMED FROM A REMOTE LOCATION AND MAINTAINS RECORDS OF THE MONITORING AND OVERSIGHT PROCESSES;

(d) ENSURES CONSUMER INFORMATION AND RECORDS ARE NOT MAINTAINED AT A REMOTE LOCATION;

(e) ENSURES CONSUMER AND REGISTERED PROVIDER INFORMATION AND RECORDS REMAIN ACCESSIBLE AND AVAILABLE FOR REGULATORY OVERSIGHT AND EXAMINATION; AND

(f) PROVIDES APPROPRIATE EMPLOYEE TRAINING TO ENSURE EMPLOYEES

WORKING FROM A REMOTE LOCATION KEEP ALL CONVERSATIONS ABOUT AND WITH CONSUMERS THAT ARE CONDUCTED FROM THE REMOTE LOCATION CONFIDENTIAL, AS IF CONDUCTED FROM A COMMERCIAL LOCATION, AND TO ENSURE THAT EMPLOYEES WORKING AT A REMOTE LOCATION WORK IN AN ENVIRONMENT THAT IS CONDUCIVE AND APPROPRIATE TO ENSURING PRIVACY AND CONFIDENTIAL CONVERSATIONS.

(2) AS USED IN THIS SECTION, "REMOTE LOCATION" MEANS A PRIVATE RESIDENCE OF AN EMPLOYEE OF A REGISTERED PROVIDER OR ANOTHER LOCATION SELECTED BY THE EMPLOYEE AND APPROVED BY THE REGISTERED PROVIDER.

SECTION 14. In Colorado Revised Statutes, 5-21-106, **amend** (2) as follows:

5-21-106. Fees - repeal. (2) The administrator shall transmit the fees REQUIRED BY SUBSECTION (1) OF THIS SECTION to the state treasurer, who shall credit ~~them~~ THE FEES COLLECTED:

(a) (I) BEFORE JULY 1, 2024, to the uniform consumer credit code cash fund created in section 5-6-204 (1).

(II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE JULY 1, 2026.

(b) ON AND AFTER JULY 1, 2024, TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

SECTION 15. In Colorado Revised Statutes, 5-20-102, **amend** (2) as follows:

5-20-102. Scope of article - residence of debtor. (2) Part 2 of this article 20 applies to private education ~~lenders~~, creditors and collection agencies in connection with ~~those~~ student education loans that are not made, insured, or guaranteed under federal law and that are used for postsecondary education.

SECTION 16. In Colorado Revised Statutes, 5-20-106, **amend** (1)(a), (9), and (10); and **add** (5)(d) as follows:

5-20-106. Licensure of student loan servicers - definition. (1) **Automatic issuance of license for federal student loan servicing contractors.** (a) A person seeking to act within this state as a student loan servicer is exempt from the application procedures described in subsection (2) of this section upon a determination by the administrator that the person is a party to a contract awarded by the United States secretary of education under 20 U.S.C. sec. ~~1087f~~ **1078, 1087f**, OR **1087hh**, as amended. The administrator shall prescribe the procedure to document eligibility for the exemption.

(5) **License renewal - annual report.** (d) ALONG WITH THE APPLICATION FOR RENEWAL, EVERY LICENSEE SHALL FILE WITH THE ADMINISTRATOR, IN THE FORM AND MANNER DETERMINED BY THE ADMINISTRATOR, AN ANNUAL REPORT CONCERNING LOANS SERVICED BY THE LICENSEE. INFORMATION INCLUDED IN AN ANNUAL REPORT FILED PURSUANT TO THIS SUBSECTION (5)(d) IS CONFIDENTIAL AND MAY BE PUBLISHED ONLY IN AGGREGATE FORM, WITH NO PERSONAL IDENTIFYING INFORMATION INCLUDED.

(9) **Change of license notification.** (a) A licensee under this section shall 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. A licensee shall give prior written notice to the administrator of a change of business location. A licensee shall not operate more than one place of business under the same license, but the administrator may issue more than one license to a licensee that complies with this part 1 as to each license. A license is not transferable or assignable.

(b) (I) SUBJECT TO RULES ADOPTED BY THE ADMINISTRATOR, NOTHING IN SUBSECTION (9)(a) OF THIS SECTION PROHIBITS A LICENSEE FROM PERMITTING ITS EMPLOYEES TO WORK FROM A REMOTE LOCATION SO LONG AS THE LICENSEE:

(A) ENSURES THAT NO IN-PERSON CUSTOMER INTERACTIONS ARE CONDUCTED AT THE REMOTE LOCATION AND DOES NOT DESIGNATE THE REMOTE LOCATION TO CONSUMERS AS A BUSINESS LOCATION;

(B) MAINTAINS APPROPRIATE SAFEGUARDS FOR LICENSEE AND CONSUMER DATA, INFORMATION, AND RECORDS, INCLUDING THE USE OF SECURE VIRTUAL PRIVATE NETWORKS, ALSO KNOWN AS "VPNS", WHERE APPROPRIATE;

(C) EMPLOYS APPROPRIATE RISK-BASED MONITORING AND OVERSIGHT PROCESSES OF WORK PERFORMED FROM A REMOTE LOCATION AND MAINTAINS RECORDS OF THE MONITORING AND OVERSIGHT PROCESSES;

(D) ENSURES CONSUMER INFORMATION AND RECORDS ARE NOT MAINTAINED AT A REMOTE LOCATION;

(E) ENSURES CONSUMER AND LICENSEE INFORMATION AND RECORDS REMAIN ACCESSIBLE AND AVAILABLE FOR REGULATORY OVERSIGHT AND EXAMINATION; AND

(F) PROVIDES APPROPRIATE EMPLOYEE TRAINING TO ENSURE EMPLOYEES WORKING FROM A REMOTE LOCATION KEEP ALL CONVERSATIONS ABOUT AND WITH CONSUMERS THAT ARE CONDUCTED FROM THE REMOTE LOCATION CONFIDENTIAL, AS IF CONDUCTED FROM A COMMERCIAL LOCATION, AND TO ENSURE THAT EMPLOYEES WORKING AT A REMOTE LOCATION WORK IN AN ENVIRONMENT THAT IS CONDUCIVE AND APPROPRIATE TO ENSURING PRIVACY AND CONFIDENTIAL CONVERSATIONS.

(II) AS USED IN THIS SUBSECTION (9)(b), "REMOTE LOCATION" MEANS A PRIVATE RESIDENCE OF AN EMPLOYEE OF A LICENSEE OR ANOTHER LOCATION SELECTED BY THE EMPLOYEE AND APPROVED BY THE LICENSEE.

(10) **Records retention - records request.** A student loan servicer shall maintain adequate records of each student education loan transaction AND ALL COMMUNICATIONS IN CONNECTION WITH STUDENT EDUCATION LOAN SERVICING for not less than two years after 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 education loan agreement, or a contract between the federal government and a licensee. Upon request by the administrator, a student loan servicer shall make the records available or shall send the records to the administrator by registered or certified mail, return receipt

requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the administrator. Upon a licensee's request, the administrator may grant the licensee additional time to make the records available or to send the records to the administrator.

SECTION 17. In Colorado Revised Statutes, 5-20-202, **amend** (1), (2)(a), (7), and (8); **repeal** (3) and (6); and **add** (7.5) and (8.5) as follows:

5-20-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Collection agency" means a collection agency, as defined in section 5-16-103 (3), that collects or attempts to collect, directly or indirectly, a consumer debt resulting from a private education ~~loan~~ CREDIT OBLIGATION. The term includes a debt buyer, as defined in section 5-16-103 (8.5).

(2) (a) "Cosigner" means 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 an obligation under a private education ~~loan~~ CREDIT OBLIGATION extended to consolidate a borrower's preexisting student loans. The term includes any individual whose signature is requested as a condition to grant credit or to forbear on collection.

~~(3) "Creditor" means the seller, lessor, lender, or person who makes or arranges a private education loan and to whom the loan is initially payable, or the assignee of a creditor's right to payment, but use of the term does not in itself impose on an assignee any obligation of the assignor. "Creditor" does not include a collection agency as defined in section 5-16-103 (3).~~

(6) (a) ~~"Private education lender" or "lender" means:~~

~~(i) Any person engaged in the business of making or extending private education loans;~~

~~(ii) A holder of a private education loan; or~~

~~(iii) A creditor.~~

~~(b) "Private education lender" or "lender" does not include:~~

~~(i) A bank, as defined in 12 U.S.C. sec. 1841 (c);~~

~~(ii) A credit union; or~~

~~(iii) An industrial bank organized under Title 7, Chapter 8, Financial Institutions Act, Utah Code Annotated, as amended.~~

(7) (a) "Private education ~~loan~~ CREDIT OBLIGATION" means a student education ~~loan~~ CREDIT OBLIGATION that, UNLESS OTHERWISE EXEMPT:

(I) Is not 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; and

(II) Is extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the ~~loan~~ CREDIT OBLIGATION is provided by the postsecondary educational institution that the student attends, INCLUDING A PAYMENT PLAN OR FINANCING.

(b) "Private education ~~loan~~ CREDIT OBLIGATION" does not include:

(I) A loan that is secured by real property, regardless of the purpose of the loan; or

(II) An extension of credit in which the covered postsecondary educational institution is the ~~lender~~ CREDITOR if:

(A) The term of the extension of credit is ninety days or less; or

(B) An interest rate is not applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

(7.5) (a) "PRIVATE EDUCATION CREDITOR" OR "CREDITOR" MEANS:

(I) ANY PERSON ENGAGED IN THE BUSINESS OF MAKING OR EXTENDING PRIVATE EDUCATION CREDIT OBLIGATION;

(II) A HOLDER OF A PRIVATE EDUCATION CREDIT OBLIGATION; OR

(III) A SELLER, LESSOR, LENDER, OR PERSON THAT MAKES OR ARRANGES A PRIVATE EDUCATION CREDIT OBLIGATION AND TO WHOM THE PRIVATE EDUCATION CREDIT OBLIGATION IS INITIALLY PAYABLE OR THE ASSIGNEE OF A CREDITOR'S RIGHT TO PAYMENT.

(b) "PRIVATE EDUCATION CREDITOR" OR "CREDITOR" DOES NOT INCLUDE:

(I) A BANK, AS DEFINED IN 12 U.S.C. SEC. 1841 (c);

(II) A CREDIT UNION;

(III) AN INDUSTRIAL BANK ORGANIZED UNDER TITLE 7, CHAPTER 8, "FINANCIAL INSTITUTIONS ACT", UTAH CODE ANNOTATED, AS AMENDED; OR

(IV) A COLLECTION AGENCY, AS DEFINED IN SECTION 5-16-103 (3).

(8) "Private education ~~loan~~ CREDIT borrower" means any resident of Colorado, including a student loan borrower, who has received or agreed to pay a private education ~~loan~~ CREDIT OBLIGATION for the resident's own postsecondary education expenses OR ANY RESIDENT OF COLORADO WHO COSIGNS FOR A PRIVATE EDUCATION CREDIT OBLIGATION.

(8.5) "REFINANCED" MEANS AN EXISTING PRIVATE EDUCATION CREDIT OBLIGATION IS SATISFIED AND REPLACED BY A NEW PRIVATE EDUCATION CREDIT OBLIGATION UNDERTAKEN BY THE SAME CONSUMER.

SECTION 18. In Colorado Revised Statutes, 5-20-203, **amend** (2) introductory portion, (2)(b)(I), (2)(b)(III), and (2)(b)(IV) as follows:

5-20-203. Registration of private education creditors - penalties - rules.

(2) A private education ~~lender~~ CREDITOR shall:

(b) Provide the administrator, at the time of registration and not less than once per year thereafter, as established by the administrator by rule, and at other times upon the administrator's request, with the following documents and information:

(I) A list of all schools at which the private education ~~lender~~ CREDITOR has provided a private education ~~loans~~ CREDIT OBLIGATION to a private education ~~loan~~ CREDIT BORROWER; EXCEPT THAT THIS REQUIREMENT DOES NOT APPLY TO A PRIVATE EDUCATION CREDIT OBLIGATION THAT IS REFINANCED;

(III) The volume of private education ~~loans~~ CREDIT OBLIGATIONS made annually at each school identified under subsection (2)(b)(I) of this section; EXCEPT THAT THIS REQUIREMENT DOES NOT APPLY TO A PRIVATE EDUCATION CREDIT OBLIGATION THAT IS REFINANCED;

(IV) The default rate for private education ~~loan~~ CREDIT borrowers obtaining private education ~~loans~~ CREDIT OBLIGATIONS from the private education ~~lender~~ CREDITOR, including the default rate for private education ~~loans~~ CREDIT OBLIGATIONS made to private education ~~loan~~ CREDIT borrowers at each school listed pursuant to subsection (2)(b)(I) of this section; EXCEPT THAT THIS REQUIREMENT DOES NOT APPLY TO A PRIVATE EDUCATION CREDIT OBLIGATION THAT IS REFINANCED;

SECTION 19. In Colorado Revised Statutes, **amend** 5-20-204 as follows:

5-20-204. Cosigner disclosures. (1) Before extending a private education ~~loan~~ CREDIT OBLIGATION that requires a cosigner, a private education ~~lender~~ CREDITOR shall disclose to the cosigner:

(a) How the private education ~~loan~~ CREDIT obligation will appear on the cosigner's credit;

(b) How the cosigner will be notified if the private education ~~loan~~ CREDIT OBLIGATION becomes delinquent, including how the cosigner can cure the delinquency in order to avoid negative credit furnishing and loss of cosigner release eligibility; and

(c) Eligibility for release of the cosigner's obligation on the private education ~~loan~~ CREDIT OBLIGATION, including the number of on-time payments and any other criteria required to approve the release of the cosigner from the ~~loan~~ CREDIT obligation.

(2) For any private education ~~loan~~ CREDIT OBLIGATION that obligates a cosigner, a ~~lender~~ CREDITOR shall provide the private education ~~loan~~ CREDIT borrower and the cosigner an annual written notice containing information about cosigner release, including the administrative, objective criteria the ~~lender~~ CREDITOR requires to approve the release of the cosigner from the ~~loan~~ CREDIT obligation and the process for applying for cosigner release. If the private education ~~loan~~ CREDIT borrower has met the applicable payment requirement to be eligible for cosigner release, the ~~lender~~ CREDITOR shall send the private education ~~loan~~ CREDIT borrower and the cosigner a written notification by mail, and by electronic mail if a private education ~~loan~~ CREDIT borrower or cosigner has elected to receive electronic communications from the ~~lender~~ CREDITOR, informing the private education ~~loan~~ CREDIT borrower and cosigner that the payments requirement to be eligible for cosigner release has been met. The notification must also include information about any additional criteria to qualify for cosigner release and the procedure to apply for cosigner release.

(3) A ~~lender~~ CREDITOR shall provide written notice to a private education ~~loan~~ CREDIT borrower who applies for cosigner release but whose application is incomplete. The written notice must include a description of the information needed to consider the application complete and the date by which the applicant must furnish the missing information in order to complete the application.

(4) Within thirty days after a private education ~~loan~~ CREDIT borrower submits a completed application for cosigner release, the ~~lender~~ CREDITOR shall send the private education ~~loan~~ CREDIT borrower and cosigner a written notice that informs the private education ~~loan~~ CREDIT borrower and cosigner whether the ~~lender~~ CREDITOR has approved or denied the cosigner release application. If the ~~lender~~ CREDITOR denies a request for cosigner release, the private education ~~loan~~ CREDIT borrower may request copies of any documents or information used in the determination, including the credit score threshold used by the ~~lender~~ CREDITOR, the private education ~~loan~~ CREDIT borrower's consumer report, the private education ~~loan~~ CREDIT borrower's credit score, and any other documents or information specific to the private education ~~loan~~ CREDIT borrower. The ~~lender~~ CREDITOR shall also provide any adverse action notices required under applicable federal law if the denial is based in whole or in part on any information contained in a consumer report.

(5) In response to a written or oral request by the private education ~~loan~~ CREDIT borrower for cosigner release, a ~~lender~~ CREDITOR shall provide to the private education ~~loan~~ CREDIT borrower the information described in subsection (2) of this section.

SECTION 20. In Colorado Revised Statutes, **amend 5-20-205** as follows:

5-20-205. Cosigner release. (1) A ~~lender~~ CREDITOR shall not impose any restriction that permanently bars a private education ~~loan~~ CREDIT borrower from qualifying for cosigner release, including restricting the number of times a private education ~~loan~~ CREDIT borrower may apply for cosigner release.

(2) A ~~lender~~ CREDITOR shall not impose any negative consequences on a private education ~~loan~~ CREDIT borrower or cosigner during the sixty days following the

issuance of the notice required pursuant to section 5-20-204 (3) or until the lender CREDITOR makes a final determination about a private education loan CREDIT borrower's cosigner release application, whichever occurs later. As used in this subsection (2), "negative consequences" includes the imposition of additional eligibility criteria, negative credit reporting, lost eligibility for cosigner release, late fees, interest capitalization, or other financial injury.

(3) For any private education loan CREDIT OBLIGATION issued on or after June 29, 2021, a lender CREDITOR shall not require proof of more than twelve consecutive, on-time payments as part of the criteria for cosigner release. A private education loan CREDIT borrower who has paid the equivalent of twelve months of principal and interest payments within any twelve-month period is deemed to have satisfied the consecutive, on-time payment requirement even if the private education loan CREDIT borrower has not made payments monthly during the twelve-month period. If a private education loan CREDIT borrower or cosigner requests a change in terms that restarts the count of consecutive, on-time payments required for cosigner release, the lender CREDITOR shall notify the private education loan CREDIT borrower and cosigner in writing of the impact of the change and provide the private education loan CREDIT borrower or cosigner the right to withdraw or reverse the request to avoid that impact.

(4) A private education loan CREDIT borrower may request an appeal of a lender's CREDITOR'S determination to deny a request for cosigner release, and the lender CREDITOR shall permit the private education loan CREDIT borrower to submit additional documentation evidencing the private education loan CREDIT borrower's ability, willingness, and stability to meet the payment obligations. The private education loan CREDIT borrower may request that another employee of the lender CREDITOR review the cosigner release determination.

(5) A lender CREDITOR shall establish and maintain a comprehensive record management system reasonably designed to ensure the accuracy, integrity, and completeness of information about cosigner release applications and to ensure compliance with applicable state and federal laws, including the FEDERAL "Equal Credit Opportunity Act", 15 U.S.C. sec. 1691 et seq., as amended, and the FEDERAL "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., as amended. This system must include the number of cosigner release applications received, the approval and denial rate, and the primary reasons for any denial.

SECTION 21. In Colorado Revised Statutes, **amend** 5-20-206 as follows:

5-20-206. Cosigner rights. (1) A lender CREDITOR shall provide a cosigner with access to all documents or records related to the cosigned private education loan CREDIT OBLIGATION that are available to the private education loan CREDIT borrower.

(2)(a) If a lender CREDITOR provides electronic access to documents and records for a private education loan CREDIT borrower, ~~it~~ THE CREDITOR shall provide equivalent electronic access to the cosigner.

(b) Upon the private education loan CREDIT borrower's request, the lender

CREDITOR shall redact the private education ~~loan~~ CREDIT borrower's contact information from documents and records provided to a cosigner.

(3) A ~~lender~~ CREDITOR shall not include in a private education ~~loan~~ CREDIT OBLIGATION executed after June 29, 2021, a provision that permits the ~~lender~~ CREDITOR to accelerate payments, in whole or in part, except upon a payment default. A ~~lender~~ CREDITOR shall not place any ~~loan~~ CREDIT OBLIGATION or account into default or accelerate a ~~loan~~ CREDIT OBLIGATION for any reason other than payment default.

(4) A private education ~~loan~~ CREDIT OBLIGATION executed before June 29, 2021, may permit the ~~lender~~ CREDITOR to accelerate payments only if the promissory note or ~~loan~~ CREDIT OBLIGATION agreement explicitly authorizes an acceleration and only for the reasons stated in the note or agreement.

SECTION 22. In Colorado Revised Statutes, **amend** 5-20-207 as follows:

5-20-207. Bankruptcy or death of cosigner. (1) If a cosigner dies, the ~~lender~~ CREDITOR shall not attempt to collect against the cosigner's estate other than for payment default.

(2) With regard to the death or bankruptcy of a cosigner, if a private education ~~loan~~ CREDITOR is not more than sixty days delinquent at the time the ~~lender~~ CREDITOR is notified of the cosigner's death or bankruptcy, the ~~lender~~ CREDITOR shall not change any terms or benefits under the promissory note, repayment schedule, repayment terms, or monthly payment amount or any other provision associated with the ~~loan~~ CREDIT OBLIGATION.

SECTION 23. In Colorado Revised Statutes, **amend** 5-20-208 as follows:

5-20-208. Total and permanent disability of the private education credit borrower or cosigner. (1) For any private education ~~loan~~ CREDIT OBLIGATION issued on or after June 29, 2021, a private education ~~lender~~ CREDITOR, when notified of the total and permanent disability of a private education ~~loan~~ CREDIT borrower or cosigner, shall release any cosigner from the obligations of the cosigner under a private education ~~loan~~ CREDIT OBLIGATION. The ~~lender~~ CREDITOR shall not attempt to collect a payment from a cosigner following a notification of total and permanent disability of the private education ~~loan~~ CREDIT borrower or cosigner.

(2) A ~~lender~~ CREDITOR shall, when notified of the total and permanent disability of a private education ~~loan~~ CREDIT borrower, discharge the liability of the private education ~~loan~~ CREDIT borrower and cosigner on the ~~loan~~ CREDIT OBLIGATION.

(3) After receiving a notification described in subsection (2) of this section, the ~~lender~~ CREDITOR shall not:

(a) Attempt to collect on the outstanding liability of the private education ~~loan~~ CREDIT borrower or cosigner; or

(b) Monitor the disability status of the private education ~~loan~~ CREDIT borrower at any point after the date of discharge.

(4) A ~~lender~~ CREDITOR shall, within thirty days after the release of either a cosigner or private education ~~loan~~ CREDIT borrower from the obligations of a private education ~~loan~~ CREDIT OBLIGATION pursuant to subsection (1) or (2) of this section, notify both the private education ~~loan~~ CREDIT borrower and cosigner of the release.

(5) A ~~lender~~ CREDITOR shall, within thirty days after receiving notice of the total and permanent disability of a private education ~~loan~~ CREDIT borrower pursuant to subsection (1) of this section, provide the private education ~~loan~~ CREDIT borrower an option to designate an individual to have the legal authority to act on behalf of the private education ~~loan~~ CREDIT borrower.

(6) If a cosigner is released from the obligations of a private education ~~loan~~ CREDIT OBLIGATION pursuant to subsection (1) of this section, the ~~lender~~ CREDITOR shall not require the private education ~~loan~~ CREDIT borrower to obtain another cosigner on the ~~loan~~ CREDIT obligation.

(7) A ~~lender~~ CREDITOR shall not declare a default or accelerate the debt against the private education ~~loan~~ CREDIT borrower on the sole basis of the release of the cosigner from the ~~loan~~ CREDIT obligation due to total and permanent disability pursuant to subsection (1) of this section.

SECTION 24. In Colorado Revised Statutes, **amend 5-20-209** as follows:

5-20-209. Refinancing - additional disclosures - limitations on default pending approval. (1) Before offering a person a private education ~~loan~~ CREDIT OBLIGATION that is being used to refinance an existing education ~~loan~~ CREDIT OBLIGATION, a private education ~~lender~~ CREDITOR shall provide the person a disclosure explaining that benefits and protections applicable to the existing ~~loan~~ CREDIT OBLIGATION may be lost due to the refinancing. The disclosure must be provided on a one-page information sheet in at least twelve-point type and must be written in simple, clear, understandable, and easily readable language.

(2) If a private education ~~lender~~ CREDITOR offers any private education ~~loan~~ CREDIT borrower modified or flexible repayment options in connection with a private education ~~loan~~ CREDIT OBLIGATION, the ~~lender~~ CREDITOR shall offer those modified or flexible repayment options to all of ~~its~~ THE CREDITOR'S private education ~~loan~~ CREDIT borrowers. In addition, the ~~lender~~ CREDITOR shall:

(a) Provide on its website a description of any modified or flexible repayment options offered by the ~~lender~~ CREDITOR for private education ~~loans~~ CREDIT OBLIGATIONS;

(b) Establish policies and procedures and implement modified or flexible repayment options consistently in order to facilitate the evaluation of private education ~~loan~~ CREDIT OBLIGATION modified or flexible repayment option requests, including providing accurate information regarding any such options that may be available to the private education ~~loan~~ CREDIT borrower through the promissory note or that may have been marketed to the private education ~~loan~~ CREDIT borrower through marketing materials; and

(c) Consistently present and offer private education ~~loan~~ CREDIT OBLIGATION

modified or flexible repayment options to private education ~~loan~~ CREDIT borrowers with similar financial circumstances, if the ~~lender~~ CREDITOR offers such repayment options.

(3) A private education ~~lender~~ CREDITOR shall not place a ~~loan~~ CREDIT OBLIGATION or account into default or accelerate a ~~loan~~ CREDIT OBLIGATION while a private education ~~loan~~ CREDIT borrower is seeking a ~~loan~~ CREDIT OBLIGATION modification or enrollment in a modified or flexible repayment plan; except that a ~~lender~~ CREDITOR may place a ~~loan~~ CREDIT OBLIGATION or account into default or accelerate a ~~loan~~ CREDIT OBLIGATION for payment default ninety days after the private education ~~loan~~ CREDIT borrower's default.

SECTION 25. In Colorado Revised Statutes, 5-20-210, **amend** (1) introductory portion, (1)(a), and (1)(c) as follows:

5-20-210. Prohibited conduct. (1) A private education ~~lender~~ CREDITOR shall not:

(a) Offer any private education ~~loan~~ CREDIT OBLIGATION that ~~is~~ DOES NOT ~~in~~ ~~conformity~~ COMPLY with this part 2 or WITH rules or orders of the administrator THAT ARE ISSUED under this part 2 or that violates any other state or federal law;

(c) (I) Take an assignment of earnings of the PRIVATE EDUCATION CREDIT borrower or cosigner for payment or as a security for payment of a debt arising out of a private education ~~loan~~ CREDIT OBLIGATION. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the borrower or cosigner.

(II) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a ~~loan~~ CREDIT OBLIGATION to the seller, secured by an assignment of earnings.

SECTION 26. In Colorado Revised Statutes, 5-20-211, **amend** (1) as follows:

5-20-211. Record retention - confidentiality. (1) A private education ~~lender~~ CREDITOR shall establish and maintain records and permit the administrator to access and copy any records or records systems required to be maintained pursuant to this part 2 or rules of the administrator adopted to implement this part 2. The ~~lender~~ CREDITOR shall retain loan files, including any records specified for retention under rules of the administrator, for not less than six years after the termination of the ~~loan~~ CREDIT OBLIGATION account.

SECTION 27. In Colorado Revised Statutes, 5-20-212, **amend** (1), (1.5)(a), (2), (3), (4)(a), (5), (6) introductory portion, (6)(b), and (6)(d) as follows:

5-20-212. Collection on debt - prerequisites - documentation. (1) Unless the private education ~~loan~~ CREDIT borrower has invoked ~~his or her~~ THE BORROWER'S right to cease communication with the collection agency, a collection agency attempting to collect a private education ~~loan~~ CREDIT OBLIGATION shall provide the following information, in addition to any other information required under applicable federal or state law, to the private education ~~loan~~ CREDIT borrower in the

debt collection communication immediately following the communication confirming the correct identity of the private education ~~loan~~ CREDIT borrower and at any other time the private education ~~loan~~ CREDIT borrower so requests:

(a) For private education ~~loans~~ CREDIT OBLIGATIONS referred to collections on or after June 29, 2021, the name of the owner of the private education ~~loan~~ CREDIT OBLIGATION debt;

(b) The name of the true original ~~lender~~ CREDITOR and every subsequent ~~loan~~ CREDIT OBLIGATION holder, if applicable;

(c) The true original ~~lender's~~ CREDITOR'S account number used to identify the private education ~~loan~~ CREDIT OBLIGATION debt at the time of default, if the true original ~~lender~~ CREDITOR used an account number to identify the private education ~~loan-debt~~ CREDIT OBLIGATION at the time of default. The collection agency may rely on account numbers provided by the ~~lender~~ CREDITOR.

(d) The amount due when the private education ~~loan~~ CREDIT OBLIGATION was referred to collections;

(e) For private education ~~loans~~ CREDIT OBLIGATIONS referred to collections on or after June 29, 2021, a log of all payments made on the student ~~loan~~ CREDIT OBLIGATION account;

(f) A copy of all pages of the contract, application, or other documents evidencing the private education ~~loan~~ CREDIT borrower's liability for the private education ~~loan~~ CREDIT OBLIGATION, stating all terms and conditions applicable to the ~~loan~~ CREDIT OBLIGATION; and

(g) A clear and conspicuous statement disclosing that the private education ~~loan~~ CREDIT borrower has a right to request all nonprivileged information possessed by the ~~lender~~ CREDITOR or collection agency related to the defaulted private education ~~loan~~ CREDIT OBLIGATION debt, including the required information described in subsection (2) of this section, and that failure to provide that information within thirty days after such a request precludes the collection agency from collecting or attempting to collect the ~~debt~~ CREDIT OBLIGATION.

(1.5) (a) From the information listed in subsection (1) of this section, the collection agency may redact the private education ~~loan~~ CREDIT borrower's social security number, all but the last four digits of the private education ~~loan~~ CREDIT borrower's account number, and any other personal identifying information. A collection agency that, in good faith, attempts to validate the identity of the borrower and sends the information required by this section in conjunction with the notice required by 15 U.S.C. sec. 1692g (a) is deemed to have verified the identity of the borrower for purposes of this section.

(2) A collection agency shall not collect or attempt to collect a private education ~~loan~~ CREDIT OBLIGATION debt unless the collection agency possesses, and furnishes the following information to the private education ~~loan~~ CREDIT borrower upon request within thirty days after the request; and, for ~~loans~~ CREDIT OBLIGATIONS

referred to collections before June 29, 2021, the collection agency shall have thirty days to acquire the information from the private education ~~lender~~ CREDITOR:

- (a) The name of the owner of the private education ~~loan~~ CREDIT OBLIGATION;
 - (b) The name of the true original ~~lender~~ CREDITOR and every subsequent ~~loan~~ CREDIT OBLIGATION holder, if applicable;
 - (c) The true original ~~lender's~~ CREDITOR's account number used to identify the private education ~~loan~~ CREDIT OBLIGATION at the time of default, if the true original ~~lender~~ CREDITOR used an account number to identify the ~~loan~~ CREDIT OBLIGATION at the time of default, and the account number assigned to the ~~loan~~ CREDIT OBLIGATION by each subsequent ~~loan~~ CREDIT OBLIGATION holder, if known;
 - (d) The amount due when the private education ~~loan~~ CREDIT OBLIGATION was referred to collections;
 - (e) An itemization of interest and fees, if any, claimed to be owed and whether those were imposed by the true original ~~lender~~ CREDITOR or any subsequent owners of the private education ~~loan~~ CREDIT OBLIGATION. The collection agency may rely on information provided by the ~~lender~~ CREDITOR.
 - (f) The date that the private education ~~loan~~ CREDIT OBLIGATION was incurred;
 - (g) A billing statement or other account record indicating the date of the last payment made on the private education ~~loan~~ CREDIT OBLIGATION, if applicable;
 - (h) (I) A log of all collection attempts made by the collection agency in the immediately preceding twelve months, including the date and time of all calls and letters; and
(II) For private education ~~loans~~ CREDIT OBLIGATIONS referred to collections on or after June 29, 2021, copies of all settlement letters or, in the alternative, a statement that the collection agency has not attempted to settle or otherwise renegotiate the ~~debt~~ CREDIT OBLIGATION;
 - (i) A copy of all pages of the contract, application, or other documents evidencing the private education ~~loan~~ CREDIT borrower's liability for the private education ~~loan~~ CREDIT OBLIGATION, stating all terms and conditions applicable to the ~~loan~~ CREDIT OBLIGATION; and
 - (j) Documentation establishing that the collection agency is the owner, or acting on behalf of the owner, of the specific, individual private education ~~loan~~ CREDIT OBLIGATION at issue. If the private education ~~loan~~ CREDIT borrower disputes the ownership or assignment of the ~~loan~~ CREDIT OBLIGATION, the collection agency ~~shall bear~~ HAS the burden of establishing the unbroken chain of ownership, beginning with the true original ~~lender~~ CREDITOR to the first subsequent ~~loan~~ CREDIT OBLIGATION holder and each additional ~~loan~~ CREDIT OBLIGATION holder.
- (3) Upon a private education ~~loan~~ CREDIT borrower's default in payment on a private education ~~loan~~ CREDIT OBLIGATION, and before a ~~lender~~ CREDITOR may

accelerate the maturity of the ~~loan~~ CREDIT OBLIGATION or commence a legal action against the private education ~~loan~~ CREDIT borrower, the ~~lender~~ CREDITOR shall provide to the private education ~~loan~~ CREDIT borrower a notice of intention to accelerate the ~~loan~~ CREDIT OBLIGATION. The ~~lender~~ CREDITOR shall provide the notice at least thirty days, but not more than one hundred days, in advance of the action.

(4) (a) A ~~lender~~ CREDITOR or debt buyer that intends to collect or attempt to collect a private education ~~loan-debt~~ CREDIT OBLIGATION shall provide written notice of that intention to the private education ~~loan~~ CREDIT borrower by registered or certified mail, return receipt requested, at the private education ~~loan~~ CREDIT borrower's last-known address.

(5) An action to enter a judgment against a private education ~~loan~~ CREDIT borrower must be commenced within six years of the date the private education ~~loan~~ CREDIT borrower failed to make a payment.

(6) A ~~lender~~ CREDITOR or collection agency that, on or after June 29, 2021, commences a legal action against a private education ~~loan~~ CREDIT borrower shall attach the following documentation and information to the complaint filed in a court of competent jurisdiction:

(b) The date of the partial or missed payment that led to the referral of the private education ~~loan~~ CREDIT OBLIGATION to collections;

(d) A statement as to whether the ~~lender~~ CREDITOR or collection agency is willing to renegotiate the terms of the ~~debt~~ CREDIT OBLIGATION;

SECTION 28. In Colorado Revised Statutes, 5-20-213, **amend** (1)(a), (2) introductory portion, (2)(a), (2)(b), (2)(d), and (2)(g) as follows:

5-20-213. Actions - counterclaims. (1) (a) For litigation proceedings commenced on or after June 29, 2021, a court shall not enter a judgment on a private education ~~loan~~ CREDIT obligation if the collection agency does not comply with the requirements of section 5-20-212.

(2) If a ~~lender~~ CREDITOR or collection agency fails to comply with the requirements of this part 2, a private education ~~loan~~ CREDIT borrower may bring an action, including a counterclaim, against the ~~lender~~ CREDITOR or collection agency to recover or obtain:

(a) An order setting aside or vacating any default judgment entered against the private education ~~loan~~ CREDIT borrower;

(b) A judgment in favor of the private education ~~loan~~ CREDIT borrower;

(d) Restitution of all money taken from or paid by the private education ~~loan~~ CREDIT borrower after a judgment was obtained by a creditor;

(g) Correction of the private education ~~loan~~ CREDIT borrower's credit report;

SECTION 29. In Colorado Revised Statutes, 5-20-114, **amend** (1) introductory portion, (2) introductory portion, (2)(b), (4), and (5) as follows:

5-20-214. Remedies - civil actions - limitations - deceptive trade practice.

(1) In addition to any other remedies provided by this part 2 or otherwise provided by law, whenever it is proven by a preponderance of the evidence that a ~~lender~~ CREDITOR or collection agency has filed with a court or provided to the private education ~~loan~~ CREDIT borrower information required under this part 2 that is false, the court shall award to the private education ~~loan~~ CREDIT borrower the greater of:

(2) A private education ~~loan~~ CREDIT borrower or cosigner who suffers damage as a result of a violation of this part 2 may bring an action in a court of competent jurisdiction to recover:

(b) An order requiring the ~~lender~~ CREDITOR or collection agency to take all actions necessary to correct the private education loan borrower's credit report;

(4) A violation of this part 2 is a deceptive trade practice as specified in section 6-1-105. A private education ~~lender~~ CREDITOR or collection agency that fails to comply with any requirement imposed under this part 2 with respect to a private education ~~loan~~ CREDIT borrower or cosigner is liable in an amount equal to the sum of:

(a) Any actual damages sustained by the private education ~~loan~~ CREDIT borrower or cosigner as a result of the failure;

(b) A monetary award equal to three times the total amount the private education ~~lender~~ CREDITOR or collection agency collected from the private education ~~loan~~ CREDIT borrower or cosigner in violation of this part 2;

(c) Punitive damages as the court may allow; and

(d) In the case of any successful action by a private education ~~loan~~ CREDIT borrower to enforce the liability set out in this section, the costs of the action, together with reasonable attorney fees as determined by the court.

(5) The remedies provided in this section are not the exclusive remedies available to a private education ~~loan~~ CREDIT borrower or cosigner.

SECTION 30. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 5, 2023