



SB 2 – Regulating Student Loan Servicers (Sen. Winter & Sen. Fenberg)

Nelnet is supportive of SB 2, which is particularly effective at balancing consumer protections and customer experience with loan servicers' obligations under existing federal constraints. The issue of states' ability to require licensing of Federal servicers is being litigated and the outcome is uncertain, but Colorado's approach could be a useful model for other states, and we have only a few recommendations based on our practical experience:

RECOMMENDATION #1 – OPPORTUNITY TO CURE UNINTENTIONAL ERRORS

Sections 18(d) and (e) strictly prohibit misapplication of payments and credit reporting, without providing servicers the opportunity to cure unintentional violations, and Section 21 makes any such violation a deceptive trade practice, even in the absence of intent or gross negligence. **Thus, we recommend language be added that offer servicers a reasonable opportunity to cure violations and ensure borrowers are made whole.**

RECOMMENDATION #2 – DEFINITION OF 'COLLECTED FROM' FOR PENALTIES

Section 21(b)(II) imposes a strict liability penalty for noncompliance with the law at "three times the amount the student loan servicer collected from the student loan borrower." Unlike mortgage or auto loan servicers, student loan servicers do not have a financial interest in the loans serviced, and are paid a contractually agreed fee to service the loans on a per-borrower per-month basis. If 'collected from' means the amount of the loan processed on behalf of lenders, a servicer could be penalized three times the full balance of a loan in the tens of thousands of dollars, while having only earned a few hundred dollars for servicing. The potential magnitude of the 3x penalty could well drive servicers out of the business, in turn reducing the quality of service to consumers. **Therefore, we recommend clarification that 'collected from' means the amount collected for servicing the loan – and not the amount of the loan – as well as a change in language from strict liability to an assessment of penalties only if intent or gross negligence is found.**

RECOMMENDATION #3 – TIMING AND NOTICE OF SERVICING TRANSFERS

Section 17(d)(V) of the bill requires servicers to schedule transfers at least seven days prior to the borrower's due date. We recognize the concern about borrower payments slipping through the cracks during a transfer, but every day of the month is someone's due date, and some borrowers have more than one due date in a month. When loans are transferring to Nelnet for servicing, we work closely with the prior servicer before, during, and after the transfer to ensure borrowers are not negatively impacted. If payments go to the prior servicer, they are forwarded to us, and we apply the payment effective as of the prior servicer's receipt, regardless of when the payment reaches us. **As such, we recommend modification to eliminate the timing requirement, and instead to require and emphasize collaboration between servicers and recordkeeping to demonstrate compliance with transfer provisions.**

TWO ADDITIONAL NOTES – FYI ONLY

Authorized Representatives – Section 18(g) requires servicers to communicate with a borrower's authorized representative. We appreciate that the bill allows servicers to verify that the representative is in fact authorized, and our current practices are aligned. However, our experience with so-called 'student loan debt relief' companies suggests that not all authorized representatives are the same. We participate in the FTC's "Game of Loans" initiatives as well as those of the U.S. Department of Education, the CFPB, and many state attorneys general, helping to identify the bad players in this space, such as companies that charge borrowers hundreds or thousands of dollars for services that Federal loan servicers provide for free. **We welcome the opportunity to assist Colorado enforcement efforts to eliminate these practices.**

Ombudsperson – The Ombudsperson structure can provide an effective and accessible resource for borrowers experiencing challenges with their student loan servicers. We would welcome the opportunity to work with the bill sponsors and the Attorney General's office as the Ombudsperson function is developed, and to maintain an ongoing conversation about trends in the space in order to identify solutions. **We will also provide a direct contact in Nelnet's for questions or concerns.**