



Student Loan Bill of Rights Act

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Be it enacted by the Legislature of the State of _____:

SECTION 1. DEFINITIONS – As used in the Student Loan Bill of Rights Act:

- A. “Director” means the Director of the State Financial Regulator;
- B. “Division” means the State Financial Regulator;
- C. “Person” means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, unincorporated organizations, trustees, fiduciaries, and public entities.
- D. “Servicing” means:
 - 1. Receiving scheduled periodic payments from a student loan borrower or notification of such payments pursuant to the terms of a student education loan;
 - 2. Applying payments of principal and interest, and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; and
 - 3. During a period when no payment is required on a student education loan;
 - i. Maintaining account records for the loan; and
 - ii. Communicating with the student loan borrower regarding the loan, on behalf of the loan’s holder, or
 - 4. Interactions with a student loan borrower, including activities to help prevent default on obligations arising from student loans, conducted to facilitate the activities described in subsection (i) or (ii) of this definition, and;
 - 5. Performing other administrative services with respect to student education loans;
- E. “Student education loan” means a loan primarily for personal use to finance higher-education-related expenses, but does not include an isolated personal loan made by an individual to another for higher-education related expenses;



- F. "Student loan borrower" means:
 - 1. A resident of the state who has received or agreed to pay a student education loan; or
 - 2. A person who shares responsibility with a resident of the state for repaying a student education loan.
- G. "Student loan servicer" means a person engaged in the business of servicing of student education loans to a student loan borrower.

SECTION 2. LICENSE REQUIRED – EXEMPTIONS

- A. A person shall not act directly or indirectly as a student loan servicer without first obtaining a license from the division pursuant to the Student Loan Bill of Rights Act, unless that person is exempt from licensure pursuant to Subsection B of this section.
- B. The following persons are exempt from licensing requirements pursuant to the Student Loan Bill of Rights Act:
 - 1. A bank or credit union;
 - 2. A wholly owned subsidiary of a bank or credit union;
 - 3. An operating subsidiary of a bank or credit union where each owner of the operating subsidiary is wholly owned by the same bank or credit union; and
 - 4. The State Higher Education Department

SECTION 3. LICENSE APPLICATION – INVESTIGATION – LICENSE ISSUANCE

- A. A person seeking to act as a student loan servicer shall make a written application to the Director for an initial license in a form prescribed by the Director. The application shall include:
 - 1. A financial statement prepared by a certified or registered public accountant, the accuracy of which is sworn under oath before a notary public by the proprietor, a general partner or a corporate officer, or a member duly authorized to execute such documents;
 - 2. Information regarding the history of criminal convictions of the:
 - i. Applicant;



- ii. Partners, if the applicant is a partnership;
 - iii. Members, if the applicant is a limited liability company or association; or
 - iv. Officers, directors and principal employees, if the applicant is a corporation;
 3. Sufficient information pertaining to the history of criminal convictions of the applicant, partners, members, officers, directors, or principal employees as the Director deems necessary to make the findings required pursuant to subsection E. of this section.
 4. A nonrefundable license fee of an amount to be established by the Director;
 5. After an initial license has been issued, an annual renewal fee of an amount to be determined by the Director; and
 6. A nonrefundable investigation fee to be established by the Director.
- B. The Director shall determine the amount of the fees required in this section and may periodically reduce or increase the amount of one or more of the fees if necessary pursuant to subsection A. of this section.
- C. The Director shall internally track all license, examination, and investigation fees collected pursuant to this Act and any funds received from any public or private source. The Director shall use these funds to cover the costs of carrying out the duties of this Act, and funds received may not be used for any other purpose.
- D. The Director may require or allow applications to be made electronically through the Nationwide Multistate Licensing System & Registry. An applicant using that system shall pay all required processing fees for the system.
- E. Upon the filing of an application for an initial license and the payment of required fees, the Director shall investigate the financial condition and responsibility, the financial and business experience, and the character and general fitness of the applicant.
- F. The Director may conduct state and national criminal history records checks of the applicant and of each partner, member, officer, director, and principal employee of the applicant.



- G. The Director shall issue a license for a student loan servicer pursuant to the Student Loan Bill of Rights Act if the Director finds that:
1. The applicant has submitted a completed application;
 2. The applicant's financial condition is sound;
 3. The applicant's business will be conducted honestly, fairly, equitable, carefully, and efficiently within the purpose and intent of the Student Loan Bill of Rights Act and in a manner commanding the confidence and trust of the community;
 4. A person has not made an incorrect statement of a material fact on behalf of the applicant either in the application or in a report or statement made pursuant to the Student Loan Bill of Rights Act;
 5. A person on behalf of the applicant has not knowingly omitted to state a material fact on behalf of the applicant necessary to give the Director information lawfully required by the Director pursuant to the Student Loan Bill of Rights Act;
 6. The applicant has paid the license and investigation fees required pursuant to this section;
 7. The applicant has met all other requirements pursuant to the Student Loan Bill of Rights Act as determined by the Director; and
 8. If the applicant is:
 - i. An individual, that the individual is in all respects properly qualified and of good character;
 - ii. A partnership, that each partner is in all respects properly qualified and of good character;
 - iii. A corporation or association, that the following are in all respects properly qualified and of good character, including the corporation's or association's: 1) president; 2) executive committee chair; 3) senior officer responsible for the corporation's business; 4) chief financial officer; or 5) or any other person who performs functions similar to those described in items 1) through 4) of this subparagraph and as determined by the Director; and 6) each director, each trustee and each shareholder owning ten percent or more of



- each class of the securities of the corporation or association;
or
- iv. A limited liability company, that each member is in all respects properly qualified and of good character.
- H. Automatic issuance of license for federal student loan servicing contractors.
1. A person seeking to act within this state as a student loan servicer is exempt from the application procedures described in subsection (A) of this section upon a determination by the Director that student loan servicing performed in this state is conducted pursuant to a contract awarded by the United States Secretary of Education under 20 U.S.C. Sec. 1087f. The Director shall prescribe the procedure to document eligibility for the exemption.
 2. Automatic license. A person deemed exempt by the Director pursuant to this subsection (H) shall, upon payment of the fees required by Section 4 of the Student Loan Bill of Rights Act, automatically be issued a license from the Director and shall be considered by the Director to have met all requirements set forth in subsection (G) of this section.
 3. Procedural exemptions. A person issued a license pursuant to this subsection (H) is exempt from subsections (A)(1) to (A)(3), (B), and (G) of this section. A person issued licensed pursuant to this subsection (H) shall comply with the record requirements in Section (7) of the Student Loan Bill of Rights Act except to the extent that the requirements are inconsistent with federal law.
 4. Notice. A person issued a license pursuant to this subsection (H) shall provide the Director with written notice within seven days following notification of the expiration, revocation, or termination of any contract awarded by the United States Secretary of Education under 20 U.S.C. 1087f. The person has thirty days following notification to satisfy all requirements established under subsection (G) if this section in order to continue to act within this state as a student loan servicer. At the expiration of the thirty-day period, the Director shall immediately suspend any license granted to the person under this section.



5. Preservation of Authorities. With respect to student loan servicing not conducted pursuant to a contract awarded by the United States Secretary of Education under 20 U.S.C. 1087f, nothing in this section prevents the Director from issuing or filing a civil action for, an order to temporarily or permanently bar any person from action as a student loan servicer or violating applicable law.

SECTION 4. LICENSE EXPIRATION – LICENSE SURRENDER – LICENSE RENEWAL – LICENSE SUSPENSION – INFORMATION UPDATE- LICENSE ABANDONMENT – NO ABATEMENT OF FEES

- A. A license issued pursuant to the Student Loan Bill of Rights Act shall expire at the close of business on December 31 of the year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to the Student Loan Bill of Rights Act.
- B. No later than fifteen days after a licensee ceases to engage in the business of student loan servicing in the state for any reason, the licensee shall provide written notice of surrender to the Director and shall surrender to the Director its license for each location in which the licensee has ceased to engage in the business of student loan servicing. The written notice of surrender shall identify the location where the records of the licensee will be stored and the name, address and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including administrative actions by the Director to revoke or suspend a license, assess a civil penalty, order restitution, or the exercise any other authority provided to the Director pursuant to the Student Loan Bill of Rights Act.
- C. After notice of surrender of a license is provided to the Director in accordance with this section, the license may be renewed for the next twelve month period upon the filing of an application containing all required documents and fees required by the Student Loan Bill of Rights Act. The renewal application shall be filed on or before November 1 of the year in which the license expires. A renewal application filed with the Director after November 1 and before December 31 of the year in which the license expired, but that is accompanied by a one-hundred dollar (\$100) late fee for each day that the renewal application is late, shall be deemed to be timely. If an application for a renewal license has been filed with the



- Director on or before the date the license expires, the license sought to be renewed shall continue in full force and effect until the Director has notified the licensee in writing of the Director's refusal to renew the license, including the grounds for the refusal. The Director may refuse to renew a license on any ground upon which the Director may refuse to issue an initial license.
- D. If the Director determines that a check filed with the Director to pay a renewal fee has been dishonored, the Director shall automatically suspend the license. The Director shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal and an opportunity for a hearing on such actions.
- E. The applicant or licensee shall notify the Director, in writing, of any change in the information provided in its initial application for a license or its most recent renewal application for such license, as applicable, not later than ten business days after the occurrence of the event that results in that information becoming inaccurate.
- F. The Director shall deem an application for a license abandoned if the applicant fails to respond to a request for information required pursuant to this act. The Director shall notify the applicant, in writing, that if the applicant fails to submit that information not later than sixty days after the date on which such request for information was made, the application shall be deemed abandoned. An application filing fee paid before the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application does not preclude the applicant from submitting a new application for a license pursuant to the Student Loan Bill of Rights Act.
- G. A license fee paid pursuant to the Student Loan Bill of Rights Act shall not be abated.

SECTION 5. LICENSEE NAMES AND LOCATIONS – TRANSFERABILITY – ASSIGNABILITY

- A. A licensed student loan servicer shall not service student education loans under a name or at a place of business other than as listed in the license. A change of a place of business shall require prior written notice to the Director. Not more than one place or business shall be maintained under the same license, but the Director may issue more than one license to the



same licensee that is in compliance with the provisions of the Student Loan Bill of Rights Act.

- B. A license for a student loan servicer is not transferable or assignable.

SECTION 6. RECORD RETENTION

- A. A student loan servicer shall maintain adequate records of each student education loan transaction for at least seven years following the final payment on a student education loan or the assignment of a student education loan, whichever occurs first, or a longer period the Director may be required.
- B. Within five business days or receipt of a request for student education records from the Director, a student loan servicer shall make the records available to the Director, or shall send the records to the Director by registered or certified mail, return receipt request, or by any express delivery carrier that provides a dated delivery receipt. Upon request, the Director may grant a licensee additional time to make the records available or sent the records to the Director.

SECTION 7. DUTIES OF STUDENT LOAN SERVICERS

- A. As used in this section, "nonconforming payment" means a payment on a student education loan of a student loan borrower that is different than the required payment.
- B. Requirements. Except as otherwise provided in federal law, a federal student education loan agreement or a contract between the Federal Government and a student loan servicer, a student loan servicer shall comply with the requirements of this subsection.
 - 1. Upon receipt of a written inquiry from a student loan borrower or the representative of a student loan borrower, a student loan servicer shall respond by:
 - i. Acknowledging receipt of the written inquiry within 10 days; and
 - ii. Providing, within 30 days after receiving the inquiry, information relating to the inquiry and, if applicable, the action the student loan servicer will take to correct the student loan borrower's account or an explanation of the



student loan servicer's position that the borrower's account is correct.

2. A student loan servicer shall inquire of a student loan borrower how to apply an overpayment or prepayment to a student loan. A student loan borrower's direction on how to apply an overpayment or prepayment to a student loan must stay in effect for any future overpayments or prepayments during the term of a student loan until the borrower provides different directions. For purposes of this paragraph, "overpayment" or "prepayment" means a payment on a student loan in excess of the monthly amount due from a borrower on a student loan.
3. A student loan servicer shall apply a partial payment or underpayment in a manner that minimizes late fees and negative credit reporting. When loans on a student loan borrower's account have an equal stage of delinquency, a student loan servicer shall apply a partial payment or underpayment to satisfy as many individual loan payments as possible on a borrower's account. For purposes of this subsection, "partial payment" or "underpayment" means a payment on a student loan account that contains multiple individual loans in an amount less than the amount necessary to satisfy the outstanding payment due on all loans in the student loan account.
4. In the event of the sale, assignment, or other transfer of the servicing of a student education loan that results in a change in the identity of the person to whom a student loan borrower is required to send payments or direct any communication concerning the student education loan:
 - i. As a condition of the sale, assignment, or transfer, the student loan servicer shall require the new student loan servicer to honor all benefits originally represented as available to the student loan borrower during the repayment of the student education loan and preserve the availability of such benefits, including any benefits for which the student loan borrower has not yet qualified;
 - ii. Within 45 days after the sale, assignment or transfer, the student loan servicer shall transfer to the new student loan servicer all information regarding the student loan borrower,



- the account of the student loan borrower and the student education loan of the student loan borrower, including the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower; and
- iii. The sale, assignment, or transfer of the servicing of the student education loan must be completed at least 7 days before the next payment on the loan is due.
5. A student loan servicer that obtains the right to service a student education loan shall adopt policies and procedures to verify that the student loan servicer has received all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower, including, but not limited to, the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower. The Director shall have the authority to investigate these policies and procedures pursuant to the Student Loan Bill of Rights Act.
 6. A student loan servicer shall evaluate a student loan borrower for a repayment program based on income prior to placing the borrower in forbearance or default, if a repayment program based on income is available to the borrower.

SECTION 8. STUDENT LOAN SERVICERS – PROHIBITED ACTS

- A. A student loan servicer shall not:
 1. Directly or indirectly employ a scheme, device, or artifice intended to defraud or mislead a student loan borrower;
 2. Engage in an unfair or deceptive practice toward a person or misrepresent or omit material information in connection with the servicing of a student education loan, including misrepresenting the amount, nature, or terms of a fee or payment due or claimed to be due on a student education loan, the terms, and conditions of the loan agreement of the student loan borrower's obligations under the loan;
 3. Engage in abusive acts or practices when servicing a student education loan in this state. An act or practice is abusive in



connection with the servicing of a student education loan, if the act or practice does either of the following:

- i. Materially interferes with the ability of a student loan borrower to understand a term or condition of a student education loan.
 - ii. Takes unreasonable advantage of any of the following:
 - a) A lack of understanding on the part of a student loan borrower of the material risks, costs, or conditions of the student education loan.
 - b) the inability of a student loan borrower to protect their interests when selecting or using either of the following:
 - (I) A student education loan; or
 - (II) A feature, term, or condition of a student education loan.
 - c) The reasonable reliance by the student loan borrower on a person engaged in servicing a student education loan to act in the interests of the borrower.
 - iii. Abusive acts and practices include, but are not limited to, those described in this subsection.
4. Obtain property by fraud or misrepresentation;
 5. Knowingly misapply or recklessly apply student education loan payments to the outstanding balance of a student education loan;
 6. Knowingly or recklessly provider inaccurate information to a credit bureau;
 7. Fail to report a favorable or unfavorable payment history of a student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to a credit bureau;
 8. Refuse to communicate with an authorized representative of a student loan borrower who provides a written authorization signed by the student loan borrower, provided that the student loan servicers may adopt procedures reasonably related to verifying that



- the representative is authorized to act on behalf of the student loan borrower;
9. Negligently make a false statement or knowingly and willfully make an omission of a material fact in connection with any information or report filed with a governmental agency or in connection with an investigation conducted by the Director or another governmental agency;
 10. Fail to properly evaluate a student loan borrower for an income-driven or other student loan repayment program or for eligibility for a public service loan forgiveness program before placing the student loan borrower in forbearance or default, if an income-driven repayment or other program is available to the student loan borrower except as otherwise provided in federal law, federal student loan agreements, or a contract between the federal government and a student loan servicer.
 11. Fail to respond within 15 days to communication from the Student Loan Ombudsman, or within a shorter reasonable time as the Student Loan Ombudsman may request in the communication; or
 12. Fail to respond within 15 days to a student loan borrower complaint submitted to the servicer by the Student Loan Ombudsman. If necessary, a student loan servicer may request additional time, up to 45 days, as long as the request is accompanied by an explanation of why additional time is reasonable and necessary.
- B. A violation of this section is a violation of the State Unfair Deceptive Acts and Practices Act and is subject to the enforcement and penalty provisions contained in that Act.
1. A student loan servicer that fails to comply with any requirement imposed under this section with respect to a student loan borrower is liable in an amount equal to the sum of:
 - i. Any actual damages sustained by the borrower as a result of the failure;
 - ii. A monetary award equal to three times the total amount the student loan servicer collected from the borrowers;
 - iii. Punitive damages as the court may allow; and



- iv. In the case of any successful action by the borrower to enforce the liability set out in this subsection, the costs of the action, together with reasonable attorney's fees as determined by the court.
 2. The remedies provided in this subsection are not intended to be the exclusive remedies available to a student loan borrower, not must the borrower exhaust any administrative remedies provided under this subsection or any other applicable law before proceeding under this subsection.

SECTION 9. POWERS OF THE DIRECTOR

- A. The Director may conduct investigations and examinations for purposes of initial licensing, license renewal, license suspension, license revocation or termination, or for general or specific inquiry or investigation, to determine compliance with the Student Loan Bill of Rights Act. The Director may access, receive and use any documents, information or evidence the Director deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.
- B. For the purposes of investigating violations or complaints arising pursuant to the Student Loan Bill of Rights Act or for the purposes of examination, the Director may review, investigate, or examine the activities of any student loan servicer as often as necessary to carry out the purposes of that act. The Director may direct, subpoena or order the attendance of and examine under oath a person whose testimony may be required about the student education loan or the business or subject matter of the examination or investigation and may direct, subpoena or order the person to produce books, accounts, records, files and any other documents the Director deems relevant to the inquiry.
- C. In making an examination or investigation authorized by the Student Loan Bill of Rights Act, the Director may control access to any documents or records of the student loan servicer licensee or person under examination or investigation related to the student education loan. The Director may take possession of the documents and records or place a person in exclusive charged of the documents and records in the place where they are usually kept. During the period of control, a person shall not remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Director. Unless the Director has



reasonable grounds to believe the documents or records of the student loan servicer licensee or person have been, or are at risk of being altered or destroyed for purposes of concealing a violation of the Student Loan Bill of Rights Act, the student loan servicer licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

- D. To fulfill the duties imposed by this section and to carry out the purposes of this section, the Director may:
1. Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigatory to conduct or assist in the conduct of examinations or investigations;
 2. Enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures and documents, records, information or evidence obtained pursuant to this section;
 3. Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the student loan servicer licensee or person subject to the Student Loan Bill of Rights Act;
 4. Accept any rely on examination or investigation reports made by other governmental officials, whether in or outside of this state; and
 5. Accept audit reports made by an independent certified public accountant for the student loan servicer licensee or person subject to the Student Loan Bill of Rights Act in the course of the at part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of examination, report of investigation or other writing of the Director.
- E. The authority of this section shall remain in effect, whether a student loan servicers licensee or person subject to the provisions of the Student Loan Bill of Rights Act acts or claims to act under any licensing or registration law of this state or claims to act without such authority.
- F. A student loan servicers licensee or person subject to investigation or examination under this section shall not knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.



- G. The costs of an investigation conducted by the Director must be paid by the licensee or person being investigated. When it becomes necessary to examine or investigate the books and records of a licensee under this section at a location outside of this state, the licensee shall be liable for and shall pay to the division within 30 days of the presentation of an itemized statement the actual travel and reasonable living expenses incurred on account of its examination, supervision, and regulation or shall pay a reasonable per diem rate approved by the Commission.

SECTION 10. ENFORCEMENT BY DIRECTOR

- A. To ensure the effective supervision and enforcement of the Student Loan Bill of Rights Act, the Director may:
 - 1. Deny, suspend, revoke or decline to renew a license for a violation of the Student Loan Bill of Rights Act, rules issued pursuant to that act or an order or directive entered pursuant to that act;
 - 2. Deny, suspend, revoke or decline to renew a license if an applicant or student loan servicer fails at any time to meet the requirements of Subsection G of Section 4 of the Student Loan Bill of Rights Act;
 - 3. Impose fines on a student loan servicer pursuant to Subsection B of this section;
 - 4. Bar or suspend a student loan servicer from licensure in this state as a student loan servicer; and
 - 5. Issue orders or directives as follows:
 - i. Order or direct student loan servicers to cease and desist from conducting business related to student loans, including issuing an immediate temporary order to cease and desist;
 - ii. Order or direct student loan servicers to cease any violations of the Student Loan Bill of Rights Act; and
 - iii. Enter immediate temporary orders to cease any business licensed pursuant to the Student Loan Bill of Rights Act if the Director determines that the license was erroneously granted or the licensed student loan servicer is currently in violation of that Act.



- B. The Director may impose an administrative penalty on a student loan servicer if the Director finds, on the record after notice and opportunity for hearing, that the student loan servicer has violated or failed to comply with any requirement of the Student Loan Bill of Rights Act or any rule promulgated by the Director pursuant to that act or any order issued pursuant to authority of that act. The maximum amount of penalty for each act or omission shall be five thousand dollars (\$5,000).

SECTION 11. JUDICIAL ENFORCEMENT

- A. Upon a showing by the Director that a person has violated, or is about to violate, the Student Loan Bill of Rights Act or any rule or order of the Director pursuant to that act, the appropriate District Court in the state may grant or impose one or more of the following appropriate legal or equitable remedies:
 - 1. A temporary restraining order, permanent or temporary prohibitory or mandatory injunction or writ of prohibition or mandamus;
 - 2. A civil penalty up to a maximum of five thousand dollars (\$5,000) for each violation;
 - 3. Declaratory judgment;
 - 4. Restitution to student loan borrowers;
 - 5. Recovery by the Director of all costs and expenses for conducting an investigation or the bringing of any enforcement action under the Student Loan Bills of Rights Act;
 - 6. Other relief as the court deems just.
- B. In determining the appropriate relief, the court shall consider enforcement actions taken and imposed by the Director pursuant to the Student Loan Bill of Rights Act in connection with the transaction constituting violations of that act.
- C. The court shall not require the Director to post bond in an action pursuant to this section.

SECTION 12. COMPLIANCE WITH FEDERAL LAW

A student loan servicer shall comply with all applicable federal laws and regulations related to student loan servicing, including the Truth in Lending



Act, 15 U.S.C. Section 1601 et seq., as amended, and the regulations promulgated under that act. In addition to any other remedies provided by law, a violation of the federal law or regulation is a violation of the Student Loan Bill of Rights Act.

SECTION 13. SEVERABILITY

If any provision of this act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity shall not affect other provisions or any other application of this act which can be given effect without the invalid provision or application, and for this purpose the provisions of this act are declared severable.

SECTION 14. PROMULGATION OF RULES

The Director has authority to make reasonable regulations and orders for the administration and enforcement of the Student Loan Bill of Rights Act and is expressly authorized to promulgate regulations and orders necessary to implement the Student Loan Bill of Rights Act. The rules shall be subject to judicial review in the manner set forth in [*this state's code*]. A copy of every order promulgating a regulation and of every other order containing a requirement of general application shall be mailed to each licensee at least fifteen days before the effective date of the order.

SECTION 15. STUDENT LOAN OMBUDSMAN – DUTIES – ANNUAL REPORT

- A. The Director shall designate a Student Loan Ombudsman within the division to provide timely assistance to student loan borrowers.
- B. The Student Loan Ombudsman shall, in collaboration with the State Office of the Attorney General:
 1. Receive, review and attempt to resolve complaints from student loan borrowers;
 2. Compile and analyze data regarding student loan borrower complaints as described in Paragraph (1) of this subsection;
 3. In collaboration with the Office of the Attorney General, assist student loan borrowers in understanding their rights and responsibilities under the terms of student education loans;



4. Provide information to the public, state agencies, state legislators, and others regarding the problems and concerns of student loan borrowers and make recommendations for resolving those problems and concerns;
 5. Analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies relating to student loan borrowers and made recommendations for any changes deemed necessary;
 6. Review the complete student education loan history for any student loan borrower who has provided written consent for such review;
 7. Disseminate information concerning the availability of the division to assist student loan borrowers and potential student loan borrowers, public institutions of higher education, student loan servicers, and other participants in student education loan lending with student loan servicing concerns; and
 8. Take any other actions deemed necessary to fulfill the borrower assistance, education, and complaints-related duties in this chapter.
- C. The division, including the Student Loan Ombudsman and the State Attorney General's Office, or their designees, shall meet at least once per quarter to coordinate their efforts under Subsection B of this Section.
- D. On or before July 1, 20XX, the Student Loan Ombudsman shall, in collaboration with the Office of the Attorney General, establish and maintain a student loan borrower education course that includes education presentations and materials regarding student education loans. The student loan borrower education course shall review key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness and disclosure requirements. Any license, renewal, late filing or investigations fees imposed pursuant to the Student Loan Bill of Rights Act shall be distributed to the division for the administration and expenses incurred for offering the course
- E. On or before December 1, 20XX, and annually thereafter, the Student Loan Ombudsman shall submit a report to the appropriate legislative interim committee. Annual reports shall be made available to interested parties and the general public and published on the division's website. Consistent with state law, the report shall include, at a minimum, non-identifying



consumer data from the preceding calendar year, including the specific categories of information set forth in this subsection:

1. For each licensee:
 - i. The number of loans the licensee is servicing in the state;
 - ii. The number of loans and percentage of all loans that the licensee is servicing that are currently in default;
 - iii. The number and percentage of all loans that the licensee is servicing that are more than 60 days delinquent;
 - iv. The number and percentage of all loans that the licensee is servicing that have been paid off; and
 - v. The number and percentage of all loans the licensee is servicing that have been forgiven or discharged;
2. Information regarding the implementation of the Student Loan Bill of Rights Act;
3. The overall effectiveness of the Student Loan Ombudsman position, including information, in the aggregate, regarding the number and categories of student loan borrower complaints filed with the division and the Office of the Attorney General; and
4. The number of student loan borrower complaints investigated and resolved by the division and the Office of the Attorney General;
5. Any recommendations pertaining to the division's regulation of student loan servicers and the enforcement of the provisions of the Student Loan Bill of Rights Act.

SECTION 16. INFORMATION SHARING

- A. By July 31, 20XX the Student Loan Ombudsman and the Office of the Attorney General shall enter into an agreement to allow for the sharing of all necessary information.
- B. The Student Loan Ombudsman and the State Attorney General, or designees, shall meet at least once per year to coordinate their efforts under this Section.



SECTION 17. PRIVATE ACTION

- A. A student loan servicer shall:
 - 1. Comply with this Chapter.
 - 2. Comply with all applicable federal laws related to student loan servicing, as from time to time amended, and the regulations promulgated thereunder.

- C. Any person who suffers damage as a result of the failure of a student loan servicer to comply with paragraphs 1 and 2 of subsection A of this section may bring an action against that student loan servicer to recover to obtain any of the following:
 - i. Actual damages, but in no case, shall the total award of damages be less than five hundred dollars (\$500) per violation;
 - ii. An order enjoining the methods, acts, or practices;
 - iii. Restitution of property;
 - iv. Punitive damages;
 - v. Attorney's fees;
 - vi. Any other relief the court deems proper.

- D. In addition to any other remedies provided by this section or otherwise provided by law, whenever it is proven by a preponderance of the evidence that a student loan servicer has engaged in conduct that substantially interferes with a borrower's right to an alternative payment arrangement; loan forgiveness, cancellation, or discharge; or any other financial benefit as established under the terms of a borrower's promissory note or under the Higher Education Act of 1965 (20 U.S.C. § 1070a et seq.), as from time to time amended, and the regulations promulgated thereunder, the court shall award treble actual damages to the plaintiff, but in no case shall the award of damages be less than one thousand five hundred dollars (\$1,500) per violation.

- E. The remedies provided in this act are not intended to be the exclusive remedies available to the person, and a person shall not be required to exhaust administrative remedies established pursuant to this Section or any other applicable law prior to proceeding under this Chapter.

SECTION 18. EFFECTIVE DATE

The effective date of the provisions of this act is January 1, 20XX.