CHAPTER 58B

STUDENT LOAN BORROWER BILL OF RIGHTS

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This chapter may be cited as the "Student Loan Borrower Bill of Rights."

History: *1Sp2021 c 4 art 6 s 2*

58B.011 STUDENT LOAN ADVOCATE.

Subdivision 1. **Designation of a student loan advocate.** The commissioner of commerce must designate a student loan advocate within the Department of Commerce to provide timely assistance to borrowers and to effectuate this chapter.

Subd. 2. **Duties.** The student loan advocate has the following duties:

(1) receive, review, and attempt to resolve complaints from borrowers, including but not limited to attempts to resolve borrower complaints in collaboration with institutions of higher education, student loan servicers, and any other participants in student loan lending;

(2) compile and analyze data on borrower complaints received under clause (1);

(3) help borrowers understand the rights and responsibilities under the terms of student loans;

(4) provide information to the public, state agencies, legislators, and relevant stakeholders regarding the problems and concerns of borrowers;

(5) make recommendations to resolve the problems of borrowers;

(6) analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies relating to borrowers, and recommend any changes deemed necessary;

(7) review the complete student loan history for any borrower who has provided written consent to conduct the review;

(8) increase public awareness that the advocate is available to assist in resolving the student loan servicing concerns of potential and actual borrowers, institutions of higher education, student loan servicers, and any other participant in student loan lending; and

(9) take other actions as necessary to fulfill the duties of the advocate, as provided under this section.

Subd. 3. **Student loan education course.** The advocate must establish and maintain a borrower education course. The course must include educational presentations and materials regarding important topics in student loans, including but not limited to:

(1) the meaning of important terminology used in student lending;

(2) documentation requirements;

(3) monthly payment obligations;

(4) income-based repayment options;

(5) the availability of state and federal loan forgiveness programs; and

(6) disclosure requirements.

Subd. 4. **Reporting.** By January 15 of each odd-numbered year, the advocate must report to the legislative committees with primary jurisdiction over commerce and higher education. The report must describe the advocate's implementation of this section, the outcomes achieved by the advocate during the previous two years, and recommendations to improve the regulation of student loan servicers.

History: *2023 c 57 art 3 s 67*

58B.02 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **Borrower.** "Borrower" means a resident of this state who has received or agreed to pay a student loan or a person who shares responsibility with a resident for repaying a student loan.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 4. **Financial institution.** "Financial institution" means any of the following organized under the laws of this state, any other state, or the United States: a bank, bank and trust, trust company with banking powers, savings bank, savings association, or credit union.

Subd. 4a. **Income-driven repayment program.** "Income-driven repayment program" means the Income-Contingent Repayment Plan, the Income-Based Repayment Plan, the Income-Sensitive Repayment Plan, the Pay As You Earn Plan, the Revised Pay As You Earn Plan, and any other state, federal, or private student loan repayment plan that is calculated based on a borrower's income and for which a borrower's income may include the borrower's household income for purposes of evaluating eligibility under section 58B.06, subdivision 5.

Subd. 5. **Nationwide Multistate Licensing System and Registry.** "Nationwide Multistate Licensing System and Registry" has the meaning given in section 58A.02, subdivision 8.

Subd. 6. **Person in control.** "Person in control" means any member of senior management, including owners or officers, and other persons who directly or indirectly possess the power to direct or cause the direction of the management policies of an applicant or student loan servicer under this chapter, regardless of whether the person has any ownership interest in the applicant or student loan servicer. Control is presumed to exist if a person directly or indirectly owns, controls, or holds with power to vote ten percent or more of the voting stock of an applicant or student loan servicer or of a person who owns, controls, or holds with power to vote ten percent or more of the voting stock of an applicant or student loan servicer.

Subd. 7. **Servicing.** "Servicing" means:

(1) receiving any scheduled periodic payments from a borrower or notification of payments, and applying payments to the borrower's account pursuant to the terms of the student loan or of the contract governing servicing;

(2) during a period when no payment is required on a student loan, maintaining account records for the loan and communicating with the borrower regarding the loan, on behalf of the loan's holder; and

(3) interacting with a borrower, including activities to help prevent default on obligations arising from student loans, conducted to facilitate the requirements in clauses (1) and (2).

Subd. 8. **Student loan.** "Student loan" means a government, commercial, or foundation extension of credit for actual costs paid for tuition and reasonable education and living expenses.

Subd. 8a. **Lender.** "Lender" means an entity engaged in the business of securing, making, or extending student loans. Lender does not include:

(1) a bank, savings banks, savings and loan association, or credit union;

(2) a wholly owned subsidiary of a bank or credit union;

(3) an operating subsidiary where each owner is wholly owned by the same bank or credit union;

(4) the United States government, through Title IV of the Higher Education Act of 1965, as amended, and administered by the United States Department of Education;

(5) an agency, instrumentality, or political subdivision of Minnesota;

(6) a regulated lender organized under chapter 56, except that a regulated lender must file the annual report required for lenders under section 58B.03, subdivision 10; or

(7) a person who is not in the business of making student loans and who makes no more than three student loans, with the person's own funds, during any 12-month period.

Subd. 9. **Student loan servicer.** "Student loan servicer" means any person, wherever located, responsible for the servicing of any student loan to any borrower, including a nonbank covered person, as defined in Code of Federal Regulations, title 12, section 1090.101, who is responsible for the servicing of any student loan to any borrower.

Subd. 10. **Written communication.** "Written communication" means a written correspondence that is made by a borrower and is transmitted by mail, facsimile, or electronically through an email address or Internet website that the student loan servicer designates to receive communications from a borrower and enables the student loan servicer to identify the borrower's name and account. Written communication does not include a notice on a payment medium supplied by a student loan servicer.

History: *1Sp2021 c 4 art 6 s 3; 2024 c 114 art 3 s 11,12; 1Sp2025 c 4 art 2 s 8; 2026 c 124 art 1 s 19-21*

58B.03 LICENSING OF STUDENT LOAN SERVICERS.

Subdivision 1. **License required.** No person shall directly or indirectly act as a student loan servicer without first obtaining a license from the commissioner.

Subd. 2. **Exempt persons.** The following persons are exempt from the requirements of this chapter:

(1) a financial institution;

(2) a person servicing student loans made with the person's own funds, if no more than three student loans are made in any 12-month period;

(3) an agency, instrumentality, or political subdivision of this state that makes, services, or guarantees student loans;

(4) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction;

(5) the University of Minnesota; or

(6) a person exempted by order of the commissioner.

Subd. 3. **Application for licensure.** (a) Any person seeking to act within the state as a student loan servicer must apply for a license in a form and manner specified by the commissioner. At a minimum, the application must include:

(1) a financial statement prepared by a certified public accountant or a public accountant;

(2) the history of criminal convictions, excluding traffic violations, for persons in control of the applicant;

(3) any information requested by the commissioner related to the history of criminal convictions disclosed under clause (2);

(4) a nonrefundable license fee established by the commissioner; and

(5) a nonrefundable investigation fee established by the commissioner.

(b) The commissioner may conduct a state and national criminal history records check of the applicant and of each person in control or employee of the applicant.

Subd. 4. **Issuance of a license.** (a) Upon receipt of a complete application for an initial license and the payment of fees for a license and investigation, the commissioner must investigate the financial condition and responsibility, character, financial and business experience, and general fitness of the applicant. The commissioner may issue a license if the commissioner finds:

(1) the applicant's financial condition is sound;

(2) the applicant's business will be conducted honestly, fairly, equitably, carefully, and efficiently within the purposes and intent of this chapter;

(3) each person in control of the applicant is in all respects properly qualified and of good character;

(4) no person, on behalf of the applicant, has knowingly made any incorrect statement of a material fact in the application or in any report or statement made pursuant to this section;

(5) no person, on behalf of the applicant, has knowingly omitted any information required by the commissioner from an application, report, or statement made pursuant to this section;

(6) the applicant has paid the fees required under this section; and

(7) the application has met other similar requirements as determined by the commissioner.

(b) A license issued under this chapter is not transferable or assignable.

Subd. 5. **Notification of a change in status.** An applicant or student loan servicer must notify the commissioner in writing of any change in the information provided in the initial application for a license or the most recent renewal application for a license. The notification must be received no later than ten business days after the date of an event that results in the information becoming inaccurate.

Subd. 6. **Term of license.** Licenses issued under this chapter expire on December 31 of each year and are renewable on January 1.

Subd. 7. **Exemption from application.** (a) A person is exempt from the application procedures under subdivision 3 if the commissioner determines that the person is servicing student loans in this state pursuant to a contract awarded by the United States Secretary of Education under United States Code, title 20, section 1087f. Documentation of eligibility for this exemption shall be in a form and manner determined by the commissioner.

(b) A person determined to be eligible for the exemption under paragraph (a) shall, upon payment of the fees under subdivision 3, be issued a license and deemed to meet all of the requirements of subdivision 4.

Subd. 8. **Notice.** (a) A person issued a license under subdivision 7 must provide the commissioner with written notice no less than seven days after the date the person's contract under United States Code, title 20, section 1087f, expires, is revoked, or is terminated.

(b) A person issued a license under subdivision 7 has 30 days from the date the notification under paragraph (a) is provided to complete the requirements of subdivision 3. If a person does not meet the requirements of subdivision 3 within this time period, the commissioner shall immediately suspend the person's license under this chapter.

Subd. 9. **Commissioner may establish relationships or contracts.** Section 58A.04, subdivision 2, applies to this chapter.

Subd. 10. **Annual report.** (a) On or before March 15 each year, a student loan lender that secures, makes, or extends student loans in Minnesota must submit a report to the commissioner on the form the commissioner provides. The report must include for the previous calendar year:

(1) a list of all schools attended by borrowers who received a student loan from the student loan lender and resided within Minnesota at the time of the transaction and whose debt is still outstanding, including student loans used to refinance an existing debt;

(2) the total outstanding dollar amount owed by borrowers residing in Minnesota who received student loans from the student loan lender;

(3) the total number of student loans owed by borrowers residing in Minnesota who received student loans from the student loan lender;

(4) the total outstanding dollar amount and number of student loans owed by borrowers who reside in Minnesota, associated with each school identified under clause (1);

(5) the total dollar amount of student loans provided by the student loan lender to borrowers who resided in Minnesota in the prior calendar year;

(6) the total outstanding dollar amount and number of student loans owed by borrowers who resided in Minnesota, associated with each school identified under clause (1), that were provided in the prior calendar year;

(7) the rate of default for borrowers residing in Minnesota who obtained student loans from the student loan lender, if applicable;

(8) the rate of default for borrowers residing in Minnesota who obtained student loans from the student loan lender associated with each school identified under clause (1), if applicable;

(9) the range of initial interest rates for student loans provided by the student loan lender to borrowers who resided in Minnesota in the prior calendar year;

(10) the total number of borrowers who received student loans identified under clause (9), and the percentage of borrowers who received each rate identified under clause (9);

(11) the total dollar amount and number of student loans provided in the prior calendar year by the student loan lender to borrowers who resided in Minnesota at the time of the transaction and had a cosigner for the student loans;

(12) the total dollar amount and number of student loans provided by the student loan lender to borrowers residing in Minnesota used to refinance a prior student loan or federal student loan in the prior calendar year;

(13) the total dollar amount and number of student loans for which the student loan lender had sued to collect from a borrower residing in Minnesota in the prior calendar year;

(14) a copy of any model promissory note, agreement, contract, or other instrument used by the student loan lender in the previous year to substantiate that a borrower owes a new debt to the student loan lender; and

(15) any other information considered necessary by the commissioner to assess the total size and status of the student loan market and well-being of borrowers in Minnesota.

(b) In addition to annual reports, the commissioner may require additional regular or special reports as the commissioner deems necessary to properly supervise student loan lenders under this chapter.

(c) The commissioner of commerce must share data collected under this subdivision with the commissioner of higher education.

Subd. 11. **Annual report from student loan servicers.** (a) On or before March 15 each year, a student loan servicer that services student loans in Minnesota must submit a report to the commissioner on the form the commissioner provides. The report must include for the previous calendar year:

(1) a list of any outstanding student loans owed by borrowers who reside in Minnesota that are serviced by the student loan servicer;

(2) the total outstanding dollar amount and number of student loans that are serviced by the student loan servicer and owed by borrowers who reside in Minnesota;

(3) the total dollar amount and number of student loans owed by borrowers who resided in Minnesota that were serviced by the student loan servicer in the prior calendar year;

(4) the rate of default for student loans owed by borrowers who reside in Minnesota that are serviced by the student loan servicer, if applicable;

(5) the range of interest rates for student loans serviced by the student loan servicers to borrowers who resided in Minnesota in the prior calendar year;

(6) the total outstanding dollar amount and number of student loans that were serviced by the student loan servicer and owed by borrowers residing in Minnesota to refinance a prior student loan or federal student loan; and

(7) any other information considered necessary by the commissioner to assess the total size and status of the student loan market and well-being of borrowers in Minnesota.

(b) In addition to annual reports, the commissioner may require additional regular or special reports as the commissioner deems necessary to properly supervise student loan servicers under this chapter.

(c) The commissioner of commerce must share data collected under this subdivision with the commissioner of higher education.

History: *1Sp2021 c 4 art 6 s 4; 2024 c 114 art 3 s 13,14; 2026 c 124 art 1 s 22,23*

58B.04 LICENSING MULTIPLE PLACES OF BUSINESS.

A person licensed to act as a student loan servicer in this state is prohibited from servicing student loans under any other name or at any other place of business than that named in the license. Any time a student loan servicer changes the location of the servicer's place of business, the servicer must provide prior written notice to the commissioner. A student loan servicer may not maintain more than one place of business under the same license. The commissioner may issue more than one license to the same student loan servicer, provided that the servicer complies with the application procedures in section 58B.03 for each license.

History: *1Sp2021 c 4 art 6 s 5*

58B.05 LICENSE RENEWAL.

Subdivision 1. **Term.** Licenses are renewable on January 1 of each year.

Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely filed who has not received notice of denial of renewal is considered approved for renewal. The person may continue to act as a student loan servicer whether or not the renewed license has been received on or before January 1 of the renewal year. An application for renewal of a license is considered timely filed if the application is received by the commissioner, or mailed with proper postage and postmarked, no later than December 15 of the year immediately preceding the renewal year. An application for renewal is considered properly filed if the application is made upon forms duly executed, accompanied by fees prescribed by this chapter, and containing any information that the commissioner requires.

(b) A person who fails to make a timely application for renewal of a license and who has not received the renewal license as of January 1 of the renewal year is unlicensed until the renewal license has been issued by the commissioner and is received by the person.

Subd. 3. **Contents of renewal application.** An application for renewal of an existing license must contain the information specified in section 58B.03, subdivision 3, except that only the requested information having changed from the most recent prior application need be submitted.

Subd. 4. **Cancellation.** A student loan servicer ceasing an activity or activities regulated by this chapter and desiring to no longer be licensed shall inform the commissioner in writing and, at the same time, surrender the license and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from student loan servicing, including a timetable for the disposition of the student loans being serviced.

Subd. 5. **Renewal fees.** The following fees must be paid to the commissioner for a renewal license:

(1) a nonrefundable renewal license fee established by the commissioner; and

(2) a nonrefundable renewal investigation fee established by the commissioner.

History: *1Sp2021 c 4 art 6 s 6*

58B.051 REGISTRATION FOR LENDERS.

(a) Beginning January 1, 2025, a lender must register with the commissioner as a lender before providing services in Minnesota. A lender must not offer or make a student loan to a resident of Minnesota without first registering with the commissioner as provided in this section.

(b) A registration application must include:

(1) the lender's name;

(2) the lender's address;

(3) the names of all officers, directors, owners, or other persons in control of an applicant, as defined in section 58B.02, subdivision 6; and

(4) any other information the commissioner requires.

(c) Registration issued or renewed expires December 31 of each year. A lender must renew the lender's registration on an annual basis.

(d) The commissioner may adopt and enforce:

(1) registration procedures for lenders, which may include using the Nationwide Multistate Licensing System and Registry;

(2) nonrefundable registration fees for lenders, which may include fees for using the Nationwide Multistate Licensing System and Registry, to be paid directly by the lender;

(3) procedures and nonrefundable fees to renew a lender's registration, which may include fees for the renewed use of Nationwide Multistate Licensing System and Registry, to be paid directly by the lender; and

(4) alternate registration procedures and nonrefundable fees for postsecondary education institutions that offer student loans.

History: *2024 c 121 art 4 s 2; 2026 c 124 art 7 s 5*

58B.06 DUTIES OF STUDENT LOAN SERVICERS.

Subdivision 1. **Response requirements.** Upon receiving a written communication from a borrower, a student loan servicer must:

(1) acknowledge receipt of the communication in less than ten days from the date the communication is received; and

(2) provide information relating to the communication and, if applicable, the action the student loan servicer will take to either (i) correct the borrower's issue or (ii) explain why the issue cannot be corrected. The information must be provided less than 30 days after the date the written communication was received by the student loan servicer.

Subd. 2. **Overpayments.** (a) A student loan servicer must ask a borrower in what manner the borrower would like any overpayment to be applied to a student loan. A borrower's instruction regarding the application of overpayments is effective for the term of the loan or until the borrower provides a different instruction.

(b) For purposes of this subdivision, "overpayment" means a payment on a student loan that exceeds the monthly amount due.

Subd. 3. **Partial payments.** (a) A student loan servicer must apply a partial payment in a manner intended to minimize late fees and the negative impact on the borrower's credit history. If a borrower has multiple student loans with the same student loan servicer, upon receipt of a partial payment the servicer must apply the payments to satisfy as many individual loan payments as possible.

(b) For purposes of this subdivision, "partial payment" means a payment on a student loan that is less than the monthly amount due.

Subd. 4. **Transfer of student loan.** (a) If a borrower's student loan servicer changes pursuant to the sale, assignment, or transfer of the servicing, the original student loan servicer must protect the borrower from negative consequences resulting from the sale, assignment, transfer, system conversion, or payment the borrower makes to the original loan servicer consistent with the original student loan servicer's policy. For purposes of this paragraph, "negative consequences" includes but is not limited to: (1) negative credit reporting; (2) imposing late fees that are not required by the promissory note; or (3) eligibility loss or denial for a benefit or protection established under federal law or included in the loan contract.

(b) If a borrower's student loan servicer changes pursuant to the sale, assignment, or transfer of the servicing, the original and new student loan servicer must provide a written notice to the borrower subject to the transfer. The notice must be provided no less than 15 calendar days before the transfer's effective date and must include:

(1) the sale, assignment, or transfer's effective date;

(2) the name, address, website, and toll-free telephone number for the original student loan servicer's designated point of contact for the borrower to contact in order to obtain answers to servicing inquiries;

(3) the name, address, website, and toll-free telephone number for the new student loan servicer's designated point of contact for the borrower to contact in order to obtain answers to servicing inquiries;

(4) the date the original student loan servicer stops accepting payments on the borrower's student loan;

(5) the date the new student loan servicer begins accepting payments on the borrower's student loan;

(6) information that indicates whether the borrower's authorization for recurring electronic funds transfers, if applicable, is transferred to the new servicer. If a recurring electronic funds transfer is not transferred, the transferee must provide information that explains how the borrower may establish a new recurring electronic funds transfer with the new servicer; and

(7) a statement that indicates the current loan balance, including the current unpaid amount of principal, interest, and fees.

(c) If a borrower's student loan servicer changes pursuant to the sale, assignment, or transfer of the servicing, the original student loan servicer must ensure all necessary information regarding a borrower, a borrower's account, and a borrower's student loan accompanies a loan when the loan is transferred to a new student loan servicer. The transfer of necessary information must occur within 45 calendar days of the sale,

assignment, or transfer's effective date. For purposes of this subdivision, "necessary information" includes but is not limited to:

(1) a schedule of all transactions credited or debited to the student loan account;

(2) a copy of the promissory note for the student loan;

(3) notes created by the student loan servicer's personnel that reflect communications with the borrower regarding the student loan account;

(4) a report of the data fields relating to the borrower's student loan account created by the student loan servicer's electronic systems in connection with servicing practices;

(5) copies or electronic records of information or documents the borrower provided to the student loan servicer;

(6) if applicable, usable data fields that contain information necessary to assess the borrower's eligibility for forgiveness, including public service loan forgiveness; and

(7) information necessary to compile a payment history.

(d) A new student loan servicer must adopt and implement policies and procedures to verify that the original student loan servicer meets the requirements of paragraph (c).

Subd. 5. **Income-driven repayment.** (a) A student loan servicer must evaluate a borrower for eligibility for an income-driven repayment program before placing a borrower in forbearance or default.

(b) A student loan servicer must provide the following information on the student loan servicer's website:

(1) a description of any income-driven repayment programs available under the student loan contract or federal or state laws and regulations; and

(2) information on the policies and procedures the student loan servicer implements to facilitate the evaluation of student loan income-driven repayment program requests, including accurate information regarding any options that may be available to the borrower through the promissory note or that may have been marketed to the borrower through marketing materials.

Subd. 6. **Records.** A student loan servicer must maintain complete and accurate records, including of all written communication and telephone recordings, for each student loan. The records must be maintained for at least two years following the final payment on the student loan or the sale, assignment, or transfer of the servicing.

History: *1Sp2021 c 4 art 6 s 7; 2024 c 114 art 3 s 15,16; 2026 c 124 art 1 s 24,25*

58B.07 PROHIBITED CONDUCT.

Subdivision 1. **Misleading borrowers.** A student loan servicer must not directly or indirectly employ any scheme, device, or artifice to attempt to defraud or mislead a borrower.

Subd. 2. **Misrepresentation.** A student loan servicer must not engage in any unfair or deceptive practice or misrepresent or omit any material information in connection with the servicing of a student loan, including but not limited to misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a student loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan.

Subd. 3. **Misapplication of payments.** A student loan servicer must not knowingly or negligently misapply student loan payments to the outstanding balance of a student loan.

Subd. 4. **Inaccurate information.** A student loan servicer must not knowingly or negligently provide inaccurate information to any consumer reporting agency.

Subd. 5. **Reporting of payment history.** A student loan servicer must not fail to report both the favorable and unfavorable payment history of the borrower to a consumer reporting agency at least annually, if the student loan servicer regularly reports payment history information.

Subd. 6. **Refusal to communicate with a borrower's representative.** A student loan servicer must not refuse to communicate with a representative of the borrower who provides a written authorization signed by the borrower. The student loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the borrower.

Subd. 7. **False statements and omissions.** A student loan servicer must not knowingly or negligently make any false statement or omission of material fact in connection with any application, information, or reports filed with the commissioner or any other federal, state, or local government agency.

Subd. 8. **Noncompliance with applicable laws.** A student loan servicer must not violate any other federal, state, or local laws, including those related to fraudulent, coercive, or dishonest practices.

Subd. 9. **Incorrect information regarding student loans.** (a) A student loan servicer must not misrepresent the availability of student loan forgiveness for which the servicer has reason to know the borrower is eligible. This includes but is not limited to student loan forgiveness programs specific to military borrowers, borrowers working in public service, or borrowers with disabilities.

(b) A student loan servicer must not provide incorrect information related to forbearance. If a student loan servicer suggests placing a borrower in forbearance in lieu of a repayment program that would result in savings to the borrower and the borrower relies on this information, the student loan servicer shall be subject to the penalties provided under section 58B.09.

Subd. 10. **Compliance with servicer duties.** A student loan servicer must comply with the duties and obligations under section 58B.06.

Subd. 11. **Property.** A student loan servicer must not obtain property by fraud or misrepresentation.

Subd. 12. **Customer service.** A student loan servicer must not allow a borrower to remain on hold during an individual call for more than two hours unless the student loan servicer returns the borrower's phone call within 24 hours of the two hours expiring. A student loan servicer must not allow a call on hold to automatically lapse or end upon reaching a duration of two hours to satisfy this requirement.

Subd. 13. **Abusive acts or practices.** A student loan servicer must not engage in abusive acts or practices when servicing a student loan in this state. An act or practice is abusive in connection with the servicing of a student loan if that act or practice:

(1) materially interferes with the ability of a borrower to understand a term or condition of a student loan; or

(2) takes unreasonable advantage of any of the following:

(i) a lack of understanding on the part of a borrower of the material risks, costs, or conditions of the student loan;

(ii) the inability of a borrower to protect the interests of the borrower when selecting or using a student loan or feature, term, or condition of a student loan; or

(iii) the reasonable reliance by the borrower on a student loan servicer to act in the interests of the borrower.

Subd. 14. **Violations.** A violation of this section is an unlawful practice under section 325D.44.

History: *1Sp2021 c 4 art 6 s 8; 2024 c 114 art 3 s 17-23*

58B.08 EXAMINATIONS.

The commissioner has the same powers with respect to examinations of student loan servicers under this chapter that the commissioner has under section 46.04.

History: *1Sp2021 c 4 art 6 s 9*

58B.09 DENIAL; SUSPENSION; REVOCATION OF LICENSES.

Subdivision 1. **Powers of commissioner.** (a) The commissioner may by order take any or all of the following actions:

(1) bar a person from engaging in student loan servicing;

(2) deny, suspend, or revoke a student loan servicer license;

(3) censure a student loan servicer;

(4) impose a civil penalty, as provided in section 45.027, subdivision 6;

(5) order restitution to the borrower, if applicable; or

(6) revoke an exemption.

(b) In order to take the action in paragraph (a), the commissioner must find:

(1) the order is in the public interest; and

(2) the student loan servicer, applicant, person in control, employee, or agent has:

(i) violated any provision of this chapter or a rule or order adopted or issued under this chapter;

(ii) violated a standard of conduct or engaged in a fraudulent, coercive, deceptive, or dishonest act or practice, including but not limited to negligently making a false statement or knowingly omitting a material fact, whether or not the act or practice involves student loan servicing;

(iii) engaged in an act or practice that demonstrates untrustworthiness, financial irresponsibility, or incompetence, whether or not the act or practice involves student loan servicing;

(iv) pled guilty or nolo contendere to or been convicted of a felony, gross misdemeanor, or misdemeanor;

(v) paid a civil penalty or been the subject of a disciplinary action by the commissioner, order of suspension or revocation, cease and desist order, injunction order, or order barring involvement in an industry or profession issued by the commissioner or any other federal, state, or local government agency;

(vi) been found by a court of competent jurisdiction to have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit;

(vii) refused to cooperate with an investigation or examination by the commissioner;

(viii) failed to pay any fee or assessment imposed by the commissioner; or

(ix) failed to comply with state and federal tax obligations.

Subd. 2. **Orders of the commissioner.** To begin a proceeding under this section, the commissioner shall issue an order requiring the subject of the proceeding to show cause why action should not be taken against the person according to this section. The order must be calculated to give reasonable notice of the time and place for the hearing and must state the reasons for entry of the order. The commissioner may by order summarily suspend a license or exemption or summarily bar a person from engaging in student loan servicing pending a final determination of an order to show cause. If a license or exemption is summarily suspended or if the person is summarily barred from any involvement in the servicing of student loans pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of summary suspension or bar. All hearings must be conducted under chapter 14. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the subject of the order fails to appear at a hearing after having been duly notified, the person is considered in default and the proceeding may be determined against the subject of the order upon consideration of the order to show cause, the allegations of which may be considered to be true.

Subd. 3. **Actions against lapsed license.** If a license or certificate of exemption lapses; is surrendered, withdrawn, or terminated; or otherwise becomes ineffective, the commissioner may (1) institute a proceeding under this subdivision within two years after the license or certificate of exemption was last effective and enter a revocation or suspension order as of the last date on which the license or certificate of exemption was in effect, and (2) impose a civil penalty as provided for in this section or section 45.027, subdivision 6.

Subd. 4. **Private right of action.** (a) A borrower who suffers damage as a result of the failure of a student loan servicer to comply with this chapter may bring an action on a borrower's own behalf and on behalf of a similarly situated class of persons against that student loan servicer to recover or obtain:

(1) actual damages, except that the total award of damages must be at least $500 per plaintiff, per violation;

(2) an order enjoining the methods, acts, or practices;

(3) restitution of property;

(4) punitive damages;

(5) reasonable attorney fees; and

(6) any other relief that the court deems proper.

(b) In addition to any other remedies provided by this subdivision or otherwise provided by law, if a student loan servicer is shown, by a preponderance of the evidence, to have 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 established under the terms of a borrower's promissory note or under the Higher Education Act of 1965, United States Code, title 20, section 1070a, et seq., a borrower is entitled to damages of at least $1,500 per plaintiff, per violation.

(c) At least 45 days before bringing an action for damages or injunctive relief under this chapter, a borrower must:

(1) provide written notice to the student loan servicer alleged to have violated this chapter regarding the nature of the alleged violations; and

(2) demand that the student loan servicer correct and remedy the method, act, or practice identified in the notice under clause (1).

(d) The notice required by this subdivision must be sent by certified or registered mail, return receipt requested, to the student loan servicer's address on file with the Department of Commerce or to the student loan servicer's principal place of business in Minnesota.

(e) An action for damages or injunctive relief brought by a borrower only on the individual borrower's behalf must not be maintained under paragraph (a) upon a showing by a student loan servicer that an appropriate correction and remedy is given, or is agreed to be given within a reasonable time, to the borrower within 30 days after the notice is received.

(f) An action for damages brought by a borrower on both the borrower's behalf and on behalf of a similarly situated class of persons must not be maintained under paragraph (a) upon a showing by a student loan servicer alleged to have employed or committed a method, act, or practice declared unlawful if:

(1) all borrowers similarly situated have been identified or a reasonable effort to identify other borrowers has been made;

(2) all borrowers identified have been notified that, upon the borrower's request, the student loan servicer must make the appropriate correction and remedy;

(3) the correction and remedy requested by the borrower has been given or is given within a reasonable amount of time; and

(4) the student loan servicer has ceased from engaging, or if immediate cessation is impossible or unreasonably expensive under the circumstances, the student loan servicer ceases to engage within a reasonable amount of time, in the method, act, or practice.

(g) An attempt to comply with a demand described in paragraph (c) by a student loan servicer that receives the demand is construed as an offer to compromise and is inadmissible as evidence under Minnesota Rules of Evidence, rule 408. An attempt to comply with a demand is not an admission of engaging in an act or practice declared unlawful by paragraph (a). Evidence of compliance or attempts to comply with this section may be introduced by a defendant to establish good faith or to show compliance with paragraph (a).

(h) An award of damages must not be given in an action based on a method, act, or practice in violation of paragraph (a) if the student loan servicer alleged to have employed or committed that method, act, or practice:

(1) proves by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the use of reasonable procedures adopted to avoid that error; and

(2) makes an appropriate correction, repair, replacement, or other remedy under paragraphs (e) and (f).

History: *1Sp2021 c 4 art 6 s 10; 2024 c 114 art 3 s 24*

58B.10 DATA PRACTICES.

Subdivision 1. **Classification of data.** Data collected, created, received, maintained, or disseminated by the Department of Commerce under this chapter are governed by section 46.07.

Subd. 2. **Data sharing.** To the extent data collected, created, received, maintained, or disseminated under this chapter are not public data as defined by section 13.02, subdivision 8a, the data may, when necessary to accomplish the purpose of this chapter, be shared between:

(1) the United States Department of Education;

(2) the Office of Higher Education;

(3) the Department of Commerce;

(4) the Office of the Attorney General; and

(5) any other local, state, and federal law enforcement agencies.

History: *1Sp2021 c 4 art 6 s 11*