

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0482.02 Thomas Morris x4218

SENATE BILL 19-002

SENATE SPONSORSHIP

Winter and Fenberg, Bridges, Danielson, Donovan, Fields, Foote, Garcia, Gonzales, Lee, Moreno, Pettersen, Rodriguez, Story, Tate, Todd, Williams A.

HOUSE SPONSORSHIP

Roberts and Jackson,

Senate Committees

Education
Finance
Appropriations

House Committees

Education
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF STUDENT EDUCATION LOAN**
102 **SERVICERS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

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

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

SENATE
3rd Reading Unamended
March 22, 2019

SENATE
Amended 2nd Reading
March 21, 2019

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

administrative services. The bill also creates a student loan ombudsperson to provide timely assistance to student loan borrowers.

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

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

4 (a) Finds that:

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

11 (II) According to the Institute for College Access and Success, 52
12 percent of Colorado's students graduate with student loan debt, with an
13 average balance of \$26,530. There are approximately 761,000 student
14 loan borrowers in Colorado, and the total student loan debt outstanding
15 for Coloradans is approximately \$26 billion.

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

20 (b) Determines that:

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

1 federal standards for student loan servicing.

2 (II) The CFPB released a report in September of 2015 that found
3 that student loan borrowers encounter servicers that discourage
4 borrower-friendly alternative payment plans, fail to respond to questions
5 and payment processing errors, and fail to provide sufficient information
6 to borrowers regarding payments, benefits, interest rates, and other
7 charges; and

8 (III) A report released in March of 2017 found that Coloradans
9 complained to the CFPB 124 times about their student loan servicers in
10 2017 alone, and that nationally, complaints against servicers had
11 increased by 429 percent compared to data collected in 2016; and

12 (c) Declares that it intends by the enactment of the "Colorado
13 Student Loan Servicers Act" to promote all of the following:

14 (I) Meaningful access to federal affordable repayment and loan
15 forgiveness benefits;

16 (II) Reliable information about student loans and loan repayment
17 options;

18 (III) The public interest in furtherance of the state's historic police
19 powers to protect the health, welfare, and safety of the state and, in
20 furtherance of the public interest, the act should be liberally construed to
21 effectuate that intent; and

22 (IV) Quality customer service and fair treatment.

23 **SECTION 2.** In Colorado Revised Statutes, add article 20 to title
24 5 as follows:

25 **ARTICLE 20**

26 **Colorado Student Loan Servicers**

27 **5-20-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 20 IS THE

1 "COLORADO STUDENT LOAN SERVICERS ACT".

2 **5-20-102. Scope of article.** THIS ARTICLE 20 APPLIES TO ANY
3 PERSON ENGAGED IN SERVICING A STUDENT EDUCATION LOAN OWED BY AN
4 INDIVIDUAL WHO IS A RESIDENT OF THIS STATE. FOR THE PURPOSES OF THIS
5 ARTICLE 20, THE RESIDENCE OF AN INDIVIDUAL IS THE ADDRESS GIVEN BY
6 THE INDIVIDUAL AS THE INDIVIDUAL'S RESIDENCE TO THE CREDITOR OR TO
7 THE STUDENT LOAN SERVICER. UNTIL AN INDIVIDUAL NOTIFIES THE
8 CREDITOR OR THE STUDENT LOAN SERVICER OF A NEW OR DIFFERENT
9 ADDRESS, THE GIVEN ADDRESS IS PRESUMED TO BE UNCHANGED.

10 **5-20-103. Definitions.** AS USED IN THIS ARTICLE 20, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "ADMINISTRATOR" MEANS THE ADMINISTRATOR DESIGNATED
13 IN SECTION 5-6-103.

14 (2) "CONSUMER REPORTING AGENCY" HAS THE MEANING
15 ESTABLISHED IN SECTION 5-18-103 (4).

16 (3) "EDUCATION EXPENSES" MEANS ANY OF THE EXPENSES THAT
17 ARE INCLUDED AS PART OF THE COST OF ATTENDANCE OF A STUDENT AS
18 DEFINED IN 20 U.S.C. SEC. 1087ll, AS AMENDED.

19 (4) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
20 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
21 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

22 (5) "SERVICING" MEANS:

23 (a) (I) RECEIVING ANY SCHEDULED PERIODIC PAYMENTS FROM A
24 BORROWER OR NOTIFICATION OF SUCH PAYMENTS; AND

25 (II) APPLYING PAYMENTS TO THE BORROWER'S ACCOUNT
26 PURSUANT TO THE TERMS OF A STUDENT EDUCATION LOAN OR OF THE
27 CONTRACT GOVERNING THE SERVICING;

1 **(b) DURING A PERIOD WHEN NO PAYMENT IS REQUIRED ON A**
2 **STUDENT EDUCATION LOAN:**

3 **(I) MAINTAINING ACCOUNT RECORDS FOR THE STUDENT**
4 **EDUCATION LOAN; AND**

5 **(II) COMMUNICATING WITH THE BORROWER REGARDING THE**
6 **STUDENT EDUCATION LOAN, ON BEHALF OF THE LOAN'S HOLDER; OR**

7 **(c) INTERACTIONS WITH A BORROWER, INCLUDING ACTIVITIES TO**
8 **HELP PREVENT DEFAULT ON OBLIGATIONS ARISING FROM STUDENT**
9 **EDUCATION LOANS, CONDUCTED TO FACILITATE THE ACTIVITIES**
10 **DESCRIBED IN SUBSECTION (5)(a) OR (5)(b) OF THIS SECTION.**

11 **(6) "STUDENT EDUCATION LOAN":**

12 **(a) MEANS A LOAN THAT IS MADE, INSURED, OR GUARANTEED**
13 **UNDER TITLE IV OF THE FEDERAL "HIGHER EDUCATION ACT OF 1965", 20**
14 **U.S.C. SEC. 1070 ET SEQ., AS AMENDED, OR THAT IS EXTENDED TO A**
15 **STUDENT LOAN BORROWER FOR THE PURPOSE OF FUNDING, IN WHOLE OR**
16 **IN PART, EDUCATION EXPENSES. THE TERM INCLUDES A LOAN THAT IS**
17 **EXTENDED IN ORDER TO REFINANCE OR CONSOLIDATE A STUDENT LOAN**
18 **BORROWER'S EXISTING STUDENT EDUCATION LOANS.**

19 **(b) DOES NOT INCLUDE A LOAN UNDER AN OPEN-END CREDIT PLAN,**
20 **AS DEFINED IN REGULATION Z, 12 CFR 1026.2 (a)(20), OR A LOAN THAT**
21 **IS SECURED BY REAL PROPERTY, REGARDLESS OF THE PURPOSE FOR THE**
22 **LOAN.**

23 **(7) "STUDENT LOAN BORROWER" OR "BORROWER" MEANS:**

24 **(a) AN INDIVIDUAL WHO HAS RECEIVED OR AGREED TO PAY A**
25 **STUDENT EDUCATION LOAN; OR**

26 **(b) AN INDIVIDUAL WHO SHARES RESPONSIBILITY WITH THE**
27 **INDIVIDUAL SPECIFIED IN SUBSECTION (7)(a) OF THIS SECTION FOR**

1 REPAYING THE STUDENT EDUCATION LOAN.

2 (8) "STUDENT LOAN SERVICER":

3 (a) MEANS A PERSON THAT:

4 (I) (A) RECEIVES ANY SCHEDULED PERIODIC PAYMENTS FROM A
5 STUDENT LOAN BORROWER OR NOTIFICATION OF THE PAYMENTS; AND

6 (B) APPLIES PAYMENTS TO THE STUDENT LOAN BORROWER'S
7 ACCOUNT PURSUANT TO THE TERMS OF THE STUDENT EDUCATION LOAN OR
8 OF THE CONTRACT GOVERNING THE SERVICING;

9 (II) DURING A PERIOD WHEN NO PAYMENT IS REQUIRED ON A
10 STUDENT EDUCATION LOAN:

11 (A) MAINTAINS ACCOUNT RECORDS FOR THE LOAN; AND

12 (B) COMMUNICATES WITH THE STUDENT LOAN BORROWER
13 REGARDING THE LOAN, ON BEHALF OF THE LOAN'S HOLDER; OR

14 (III) INTERACTS WITH A STUDENT LOAN BORROWER, INCLUDING
15 ACTIVITIES TO HELP PREVENT DEFAULT ON OBLIGATIONS ARISING FROM
16 EDUCATION LOANS, CONDUCTED TO FACILITATE THE ACTIVITIES
17 DESCRIBED IN SUBSECTION (8)(a)(I) OR (8)(a)(II) OF THIS SECTION;

18 (b) DOES NOT INCLUDE:

19 (I) A BANK, TRUST COMPANY, OR INDUSTRIAL LOAN COMPANY
20 DOING BUSINESS UNDER THE AUTHORITY OF, OR IN ACCORDANCE WITH, A
21 LICENSE, CERTIFICATE, OR CHARTER ISSUED BY THE UNITED STATES OR
22 ANY STATE, DISTRICT, TERRITORY, OR COMMONWEALTH OF THE UNITED
23 STATES THAT IS AUTHORIZED TO TRANACT BUSINESS IN THIS STATE;

24 (II) A FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCIATION,
25 FEDERAL SAVINGS BANK, OR FEDERAL CREDIT UNION THAT IS AUTHORIZED
26 TO TRANACT BUSINESS IN THIS STATE;

27 (III) A SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR

1 CREDIT UNION ORGANIZED UNDER THE LAWS OF THIS OR ANY OTHER STATE
2 THAT IS AUTHORIZED TO TRANACT BUSINESS IN THIS STATE;

3 (IV) A COLLECTION AGENCY, AS DEFINED IN SECTION 5-16-103(3),
4 THAT IS LICENSED PURSUANT TO SECTION 5-16-120 AND WHOSE STUDENT
5 LOAN DEBT COLLECTION BUSINESS INVOLVES COLLECTING OR ATTEMPTING
6 TO COLLECT ON DEFALTED STUDENT LOANS; EXCEPT THAT A COLLECTION
7 AGENCY THAT ALSO SERVICES NONDEFALTED STUDENT LOANS AS PART
8 OF ITS BUSINESS IS A STUDENT LOAN SERVICER. FOR THE PURPOSE OF THIS
9 SUBSECTION (8)(b)(IV), "DEFALTED STUDENT LOANS" MEANS FEDERAL
10 STUDENT LOANS FOR WHICH NO PAYMENT HAS BEEN RECEIVED FOR TWO
11 HUNDRED SEVENTY DAYS OR MORE OR PRIVATE STUDENT LOANS IN
12 DEFAULT ACCORDING TO THE TERMS OF THE LOAN DOCUMENTS. THIS
13 SUBSECTION (8)(b)(IV) DOES NOT EXEMPT A COLLECTION AGENCY FROM
14 COMPLYING WITH THE REQUIREMENTS OF THE "COLORADO FAIR DEBT
15 COLLECTION PRACTICES ACT", ARTICLE 16 OF THIS TITLE 5.

16 (V) AN AGENCY, INSTRUMENTALITY, OR POLITICAL SUBDIVISION
17 OF A STATE WHERE SERVICING IS PERFORMED THROUGH SECTION 23-1-112
18 AND PURSUANT TO ARTICLE 3.1 OF TITLE 23. THIS SUBSECTION (8)(b)(V)
19 DOES NOT EXEMPT A NONGOVERNMENTAL ENTITY THAT PERFORMS
20 STUDENT LOAN SERVICING PURSUANT TO A CONTRACT WITH AN AGENCY,
21 INSTRUMENTALITY, OR POLITICAL SUBDIVISION OF THE STATE.

22 **5-20-104. Student loan ombudsperson - report - fund - rules**
23 - repeal. (1) THE ADMINISTRATOR SHALL DESIGNATE, SUPPORT, AND
24 MAINTAIN A STUDENT LOAN OMBUDSPERSON TO PROVIDE TIMELY
25 ASSISTANCE TO STUDENT LOAN BORROWERS. THE STUDENT LOAN
26 OMBUDSPERSON, IN CONSULTATION WITH THE ADMINISTRATOR, SHALL:
27 (a) Complaints. RECEIVE, REVIEW, AND ATTEMPT TO RESOLVE

1 COMPLAINTS FROM STUDENT LOAN BORROWERS, INCLUDING IN
2 COLLABORATION WITH INSTITUTIONS OF HIGHER EDUCATION, STUDENT
3 LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN STUDENT LOAN
4 LENDING, INCLUDING ORIGINATORS SERVICING THEIR OWN STUDENT
5 EDUCATION LOANS;

6 (b) Data. COMPILE AND ANALYZE DATA ON STUDENT LOAN
7 BORROWER COMPLAINTS AS DESCRIBED IN SUBSECTION (1)(a) OF THIS
8 SECTION;

9 (c) Assistance. ASSIST STUDENT LOAN BORROWERS IN
10 UNDERSTANDING THEIR RIGHTS AND RESPONSIBILITIES UNDER THE TERMS
11 OF STUDENT EDUCATION LOANS;

12 (d) Information. PROVIDE INFORMATION TO THE PUBLIC,
13 AGENCIES, LEGISLATORS, AND OTHERS REGARDING THE PROBLEMS AND
14 CONCERNS OF STUDENT LOAN BORROWERS AND MAKE RECOMMENDATIONS
15 FOR RESOLVING THOSE PROBLEMS AND CONCERNS;

16 (e) Laws, rules, and policies. ANALYZE AND MONITOR THE
17 DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL
18 LAWS, ORDINANCES, REGULATIONS, RULES, AND POLICIES RELATING TO
19 STUDENT LOAN BORROWERS AND RECOMMEND ANY NECESSARY CHANGES;

20 (f) Student loan history. REVIEW THE COMPLETE STUDENT
21 EDUCATION LOAN HISTORY FOR A STUDENT LOAN BORROWER WHO
22 PROVIDES WRITTEN CONSENT FOR THE REVIEW;

23 (g) Availability. DISSEMINATE INFORMATION CONCERNING THE
24 AVAILABILITY OF THE STUDENT LOAN OMBUDSPERSON TO ASSIST STUDENT
25 LOAN BORROWERS AND POTENTIAL STUDENT LOAN BORROWERS,
26 INCLUDING DISSEMINATING THE INFORMATION TO INSTITUTIONS OF HIGHER
27 EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN

1 STUDENT EDUCATION LOAN LENDING WITH ANY SERVICING CONCERNS;

2 (h) **Education course.** ESTABLISH AND MAINTAIN A STUDENT
3 LOAN BORROWER EDUCATION COURSE WITHIN EXISTING RESOURCES THAT
4 INCLUDES EDUCATIONAL PRESENTATIONS AND MATERIALS REGARDING
5 STUDENT EDUCATION LOANS. THE COURSE MUST INCLUDE AT LEAST KEY
6 LOAN TERMS, DOCUMENTATION REQUIREMENTS, MONTHLY PAYMENT
7 OBLIGATIONS, INCOME-BASED REPAYMENT OPTIONS, LOAN FORGIVENESS,
8 AND DISCLOSURE REQUIREMENTS.

9 (i) **Other actions.** TAKE ANY OTHER ACTIONS NECESSARY TO
10 FULFILL THE DUTIES OF THE STUDENT LOAN OMBUDSPERSON AS SET FORTH
11 IN THIS SECTION.

12 (2) (a) **Annual report.** THE ADMINISTRATOR SHALL SUBMIT A
13 REPORT BY JANUARY 1 OF EACH YEAR TO THE COMMITTEES OF REFERENCE
14 OF THE GENERAL ASSEMBLY HAVING JURISDICTION OVER EDUCATION,
15 INSURANCE, AND FINANCIAL SERVICES MATTERS. THE REPORT MUST
16 INCLUDE:

17 (I) **Implementation.** A DESCRIPTION OF ACTIONS TAKEN WITH
18 RESPECT TO THE IMPLEMENTATION OF THIS SECTION;

19 (II) **Effectiveness.** AN ASSESSMENT OF THE OVERALL
20 EFFECTIVENESS OF THE STUDENT LOAN OMBUDSPERSON; AND

21 (III) **Additional steps.** RECOMMENDATIONS REGARDING
22 ADDITIONAL STEPS FOR THE ADMINISTRATOR TO GAIN REGULATORY
23 CONTROL OVER LICENSING AND ENFORCEMENT WITH RESPECT TO STUDENT
24 LOAN SERVICERS.

25 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
26 2023.

27 (3) **Student loan ombudsperson and student loan servicer**

1 licensing fund. (a) THE STUDENT LOAN OMBUDSPERSON AND STUDENT
2 LOAN SERVICER LICENSING FUND, REFERRED TO IN THIS SECTION AS THE
3 "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND
4 CONSISTS OF LICENSING AND INVESTIGATION FEES COLLECTED PURSUANT
5 TO SECTION 5-20-107, CIVIL PENALTIES COLLECTED PURSUANT TO
6 SECTIONS 5-20-114 AND 5-20-117, ANY OTHER MONEY REQUIRED BY LAW
7 TO BE DEPOSITED IN THE FUND, AND ANY OTHER MONEY THAT THE
8 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

9 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
10 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
11 FUND TO THE FUND.

12 (c) ALL MONEY HELD IN THE FUND IS CONTINUOUSLY
13 APPROPRIATED TO THE DEPARTMENT OF LAW. THE ADMINISTRATOR SHALL
14 EXPEND MONEY HELD IN THE FUND TO ADMINISTER THIS ARTICLE 20.

15 **5-20-105. License required.** A PERSON SHALL NOT ACT AS A
16 STUDENT LOAN SERVICER, DIRECTLY OR INDIRECTLY, WITHOUT FIRST
17 OBTAINING A STUDENT LOAN SERVICING LICENSE FROM THE
18 ADMINISTRATOR PURSUANT TO THIS ARTICLE 20.

19 **5-20-106. Licensure of student loan servicers.** (1) Automatic
20 issuance of license for federal student loan servicing contractors.

21 (a) A PERSON SEEKING TO ACT WITHIN THIS STATE AS A STUDENT LOAN
22 SERVICER IS EXEMPT FROM THE APPLICATION PROCEDURES DESCRIBED IN
23 SUBSECTION (2) OF THIS SECTION UPON A DETERMINATION BY THE
24 ADMINISTRATOR THAT THE PERSON IS A PARTY TO A CONTRACT AWARDED
25 BY THE UNITED STATES SECRETARY OF EDUCATION UNDER 20 U.S.C. SEC.
26 1087f, AS AMENDED. THE ADMINISTRATOR SHALL PRESCRIBE THE
27 PROCEDURE TO DOCUMENT ELIGIBILITY FOR THE EXEMPTION.

3 (I) AUTOMATICALLY ISSUE A LICENSE UPON PAYMENT OF THE FEES
4 REQUIRED BY SECTION 5-20-107 (1)(a);

1 24-4-104 (4); EXCEPT THAT THE FULL INVESTIGATION REQUIREMENT
2 SPECIFIED IN SECTION 24-4-104 (4)(a) DOES NOT APPLY.

3 **(e) Preservation of authorities.** WITH RESPECT TO STUDENT LOAN
4 SERVICING NOT CONDUCTED PURSUANT TO A CONTRACT AWARDED BY THE
5 UNITED STATES SECRETARY OF EDUCATION UNDER 20 U.S.C. SEC. 1087f,
6 NOTHING IN THIS SECTION PREVENTS THE ADMINISTRATOR FROM ISSUING,
7 OR FILING A CIVIL ACTION FOR, AN ORDER TO TEMPORARILY OR
8 PERMANENTLY PROHIBIT OR BAR ANY PERSON FROM ACTING AS A STUDENT
9 LOAN SERVICER OR VIOLATING APPLICABLE LAW.

10 **(2) Other student loan servicers.** (a) A PERSON SEEKING TO ACT
11 WITHIN THIS STATE AS A STUDENT LOAN SERVICER, OTHER THAN A PERSON
12 DEEMED EXEMPT BY THE ADMINISTRATOR PURSUANT TO SUBSECTION (1)
13 OF THIS SECTION, MUST APPLY TO THE ADMINISTRATOR FOR AN INITIAL
14 LICENSE IN THE FORM THE ADMINISTRATOR PRESCRIBES. THE APPLICATION
15 MUST BE ACCCOMPANIED BY:

16 **(I) A FINANCIAL STATEMENT PREPARED BY A CERTIFIED PUBLIC**
17 ACCOUNTANT OR A PUBLIC ACCOUNTANT, A GENERAL PARTNER IF THE
18 APPLICANT IS A PARTNERSHIP, A CORPORATE OFFICER IF THE APPLICANT IS
19 A CORPORATION, OR A MEMBER DULY AUTHORIZED TO EXECUTE FINANCIAL
20 STATEMENTS IF THE APPLICANT IS A LIMITED LIABILITY COMPANY OR
21 ASSOCIATION;

22 **(II) INFORMATION REGARDING THE HISTORY OF CRIMINAL**
23 CONVICTIONS OF THE FOLLOWING:

24 **(A) THE APPLICANT;**

25 **(B) PARTNERS OF THE APPLICANT, IF THE APPLICANT IS IN A**
26 **PARTNERSHIP;**

27 **(C) MEMBERS OF THE APPLICANT, IF THE APPLICANT IS A LIMITED**

1 LIABILITY COMPANY OR ASSOCIATION; OR

2 (D) OFFICERS, DIRECTORS, AND PRINCIPAL EMPLOYEES OF THE
3 APPLICANT, IF THE APPLICANT IS A CORPORATION.

4 (b) THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION
5 (2)(a)(II) OF THIS SECTION MUST BE SUFFICIENT, AS DETERMINED BY THE
6 ADMINISTRATOR, TO MAKE THE FINDINGS REQUIRED UNDER THIS SECTION.

7 **(3) Investigation of applicant.** (a) UPON THE FILING OF AN
8 APPLICATION FOR AN INITIAL LICENSE AND THE PAYMENT OF THE FEES FOR
9 LICENSING AND INVESTIGATION PURSUANT TO SECTION 5-20-107, THE
10 ADMINISTRATOR SHALL INVESTIGATE THE FINANCIAL CONDITION AND
11 RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, CHARACTER, AND
12 GENERAL FITNESS OF THE APPLICANT.

13 (b) THE ADMINISTRATOR MAY ISSUE A LICENSE PURSUANT TO THIS
14 SECTION IF THE ADMINISTRATOR FINDS THAT:

15 (I) THE APPLICANT'S FINANCIAL CONDITION IS SOUND;
16 (II) THE APPLICANT'S BUSINESS WILL BE CONDUCTED HONESTLY,
17 FAIRLY, EQUITABLY, CAREFULLY, AND EFFICIENTLY WITHIN THE PURPOSES
18 AND INTENT OF THIS ARTICLE 20 AND IN A MANNER COMMANDING THE
19 CONFIDENCE AND TRUST OF THE COMMUNITY;

20 (III) IF THE APPLICANT IS:

21 (A) AN INDIVIDUAL, THE INDIVIDUAL IS IN ALL RESPECTS
22 PROPERLY QUALIFIED AND OF GOOD CHARACTER;

23 (B) A PARTNERSHIP, EACH PARTNER IS IN ALL RESPECTS PROPERLY
24 QUALIFIED AND OF GOOD CHARACTER;

25 (C) A LIMITED LIABILITY COMPANY OR ASSOCIATION, EACH
26 MEMBER IS IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD
27 CHARACTER; OR

1 ACCESS TO THE RECORDS. THE SURRENDER OF A LICENSE DOES NOT
2 REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL LIABILITY
3 ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE SURRENDER
4 OF THE LICENSE, INCLUDING ANY ADMINISTRATIVE ACTIONS UNDERTAKEN
5 BY THE ADMINISTRATOR TO REVOKE OR SUSPEND A LICENSE, ASSESS A
6 CIVIL PENALTY, ORDER RESTITUTION, OR EXERCISE ANY OTHER AUTHORITY
7 PROVIDED TO THE ADMINISTRATOR.

8 (5) License renewal. (a) A LICENSE ISSUED PURSUANT TO THIS
9 SECTION MAY BE RENEWED FOR THE ENSUING TWELVE-MONTH PERIOD
10 UPON THE FILING OF AN APPLICATION CONTAINING ALL REQUIRED RECORDS
11 AND FEES, INCLUDING RENEWAL FEES AS ESTABLISHED BY THE
12 ADMINISTRATOR IN ACCORDANCE WITH SECTION 5-20-107. A RENEWAL
13 APPLICATION MUST BE FILED ON OR BEFORE JANUARY 31 OF THE YEAR IN
14 WHICH THE LICENSE EXPIRES. THE ADMINISTRATOR MAY ESTABLISH A
15 LATE FEE FOR ANY RENEWAL APPLICATIONS SUBMITTED AFTER JANUARY
16 31.

17 (b) IF AN APPLICATION FOR A RENEWAL LICENSE HAS BEEN FILED
18 WITH THE ADMINISTRATOR ON OR BEFORE THE DATE THE LICENSE EXPIRES,
19 THE LICENSE SOUGHT TO BE RENEWED CONTINUES IN EFFECT UNTIL THE
20 ISSUANCE BY THE ADMINISTRATOR OF THE RENEWAL LICENSE APPLIED FOR
21 OR UNTIL THE ADMINISTRATOR HAS NOTIFIED THE LICENSEE IN WRITING OF
22 THE ADMINISTRATOR'S REFUSAL TO ISSUE THE RENEWAL LICENSE
23 TOGETHER WITH THE GROUNDS UPON WHICH THE REFUSAL IS BASED.

24 (c) THE ADMINISTRATOR MAY REFUSE TO ISSUE A RENEWAL
25 LICENSE ON ANY GROUND ON WHICH THE ADMINISTRATOR MAY REFUSE TO
26 ISSUE AN INITIAL LICENSE.

27 (6) Dishonored check. IF A CHECK FILED WITH THE

1 ADMINISTRATOR TO PAY A LICENSE, INVESTIGATION, OR RENEWAL FEE
2 UNDER THIS SECTION IS DISHONORED, THE ADMINISTRATOR SHALL
3 SUMMARILY SUSPEND THE LICENSE OR THE RENEWAL LICENSE THAT HAS
4 BEEN ISSUED BUT IS NOT YET EFFECTIVE IN ACCORDANCE WITH SECTION
5 24-4-104 (4); EXCEPT THAT THE FULL INVESTIGATION REQUIREMENT
6 SPECIFIED IN SECTION 24-4-104 (4)(a) DOES NOT APPLY. THE
7 ADMINISTRATOR SHALL GIVE THE LICENSEE NOTICE OF THE SUMMARY
8 SUSPENSION PENDING PROCEEDINGS FOR REVOCATION OR REFUSAL TO
9 RENEW AND AN OPPORTUNITY FOR A HEARING ON THE ACTIONS IN
10 ACCORDANCE WITH SECTION 5-20-113.

11 **(7) Update application information.** AN APPLICANT OR LICENSEE
12 UNDER THIS SECTION SHALL NOTIFY THE ADMINISTRATOR, IN WRITING, OF
13 ANY CHANGE IN THE INFORMATION PROVIDED IN ITS INITIAL APPLICATION
14 FOR A LICENSE OR ITS MOST RECENT RENEWAL APPLICATION FOR A
15 LICENSE, AS APPLICABLE, NOT LATER THAN TEN BUSINESS DAYS AFTER THE
16 OCCURRENCE OF THE EVENT THAT RESULTS IN THE CHANGE.

17 **(8) Incomplete application.** THE ADMINISTRATOR MAY CONSIDER
18 AN APPLICATION FOR A LICENSE UNDER THIS SECTION ABANDONED IF THE
19 APPLICANT FAILS TO RESPOND TO ANY REQUEST FOR INFORMATION
20 REQUIRED UNDER THIS ARTICLE 20 OR ANY RULES ADOPTED PURSUANT TO
21 THIS ARTICLE 20, AS LONG AS THE ADMINISTRATOR NOTIFIES THE
22 APPLICANT, IN WRITING, THAT THE APPLICATION WILL BE CONSIDERED
23 ABANDONED IF THE APPLICANT FAILS TO SUBMIT THE INFORMATION
24 WITHIN SIXTY DAYS AFTER THE DATE ON WHICH THE REQUEST FOR
25 INFORMATION WAS MADE. ABANDONMENT OF AN APPLICATION PURSUANT
26 TO THIS SUBSECTION (8) DOES NOT PRECLUDE THE APPLICANT FROM
27 SUBMITTING A NEW APPLICATION FOR A LICENSE UNDER THIS ARTICLE 20.

26 **(11) License suspension and revocation - refusal to renew.**

27 (a) THE ADMINISTRATOR MAY SUSPEND, REVOKE, ANNUL, LIMIT, MODIFY,

1 OR REFUSE TO RENEW A LICENSE ISSUED PURSUANT TO SUBSECTION (2) OF
2 THIS SECTION OR TAKE ANY OTHER ACTION IN ACCORDANCE WITH THIS
3 ARTICLE 20 IF THE ADMINISTRATOR FINDS ONE OR MORE OF THE
4 FOLLOWING:

5 (I) THE LICENSEE HAS VIOLATED ANY PROVISION OF THIS ARTICLE
6 20 OR ANY RULE LAWFULLY ADOPTED OR ORDER LAWFULLY ISSUED
7 PURSUANT TO AND WITHIN THE AUTHORITY OF THIS ARTICLE 20; OR
8 (II) ANY FACT OR CONDITION EXISTS THAT, IF IT HAD EXISTED AT
9 THE TIME OF THE ORIGINAL APPLICATION FOR THE LICENSE, CLEARLY
10 WOULD HAVE WARRANTED A DENIAL OF THE LICENSE.

11 (b) AN ABATEMENT OF THE LICENSE FEE MAY NOT BE MADE IF THE
12 LICENSE IS SURRENDERED, REVOKED, OR SUSPENDED.

13 **5-20-107. License and investigation fees.** (1) A PERSON
14 APPLYING FOR LICENSURE UNDER SECTION 5-20-106(1) OR (2) SHALL PAY
15 THE FOLLOWING NONREFUNDABLE FEES ESTABLISHED BY THE
16 ADMINISTRATOR:

17 (a) INITIAL LICENSE FEE OF AT LEAST ONE THOUSAND DOLLARS;
18 (b) ANNUAL RENEWAL FEE OF AT LEAST ONE THOUSAND DOLLARS;
19 AND
20 (c) INVESTIGATION FEE.

21 (2) THE ADMINISTRATOR SHALL DETERMINE THE AMOUNT OF THE
22 FEES REQUIRED IN THIS SECTION AND MAY PERIODICALLY REDUCE OR
23 INCREASE THE AMOUNT OF ONE OR MORE OF THE FEES IF NECESSARY
24 PURSUANT TO SECTION 24-75-402 (3) AND (4), TO REDUCE THE
25 UNCOMMITTED RESERVES OF THE FUND CREATED IN SECTION 5-20-104(3).
26 THE FUND IS SUBJECT TO THE MAXIMUM RESERVE ESTABLISHED IN
27 SECTION 24-75-402.

1 **5-20-108. Affirmative acts required of student loan servicers**

2 - definitions. (1) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW,

3 FEDERAL STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT

4 BETWEEN THE FEDERAL GOVERNMENT AND A STUDENT LOAN SERVICER, A

5 STUDENT LOAN SERVICER SHALL TAKE THE ACTIONS SPECIFIED IN THIS

6 SECTION.

7 (2) (a) A STUDENT LOAN SERVICER SHALL RESPOND TO A WRITTEN

8 INQUIRY FROM A STUDENT LOAN BORROWER, THE REPRESENTATIVE OF A

9 STUDENT LOAN BORROWER, OR THE STUDENT LOAN OMBUDSPERSON

10 WITHIN TEN BUSINESS DAYS AFTER RECEIPT OF THE REQUEST AND, WITHIN

11 THIRTY BUSINESS DAYS AFTER RECEIPT OF THE REQUEST, PROVIDE

12 INFORMATION RELATING TO THE REQUEST AND, IF APPLICABLE, THE

13 ACTION THE STUDENT LOAN SERVICER WILL TAKE TO CORRECT THE

14 ACCOUNT OR AN EXPLANATION FOR THE STUDENT LOAN SERVICER'S

15 POSITION THAT THE BORROWER'S ACCOUNT IS CORRECT.

16 (b) THE THIRTY-DAY PERIOD DESCRIBED IN SUBSECTION (2)(a) OF

17 THIS SECTION MAY BE EXTENDED FOR NOT MORE THAN FIFTEEN DAYS IF,

18 BEFORE THE END OF THE THIRTY-DAY PERIOD, THE STUDENT LOAN

19 SERVICER NOTIFIES THE BORROWER, THE BORROWER'S REPRESENTATIVE,

20 OR THE OMBUDSPERSON, AS APPLICABLE, OF THE EXTENSION AND THE

21 REASONS FOR THE DELAY IN RESPONDING.

22 (c) AFTER RECEIPT OF A WRITTEN REQUEST RELATED TO A DISPUTE

23 ON A BORROWER'S PAYMENT ON A STUDENT EDUCATION LOAN, A STUDENT

24 LOAN SERVICER SHALL NOT, FOR THE SIXTY DAYS FOLLOWING RECEIPT,

25 FURNISH ADVERSE INFORMATION TO A CONSUMER REPORTING AGENCY

26 REGARDING A PAYMENT THAT IS THE SUBJECT OF THE WRITTEN INQUIRY.

27 (3) (a) EXCEPT AS PROVIDED IN FEDERAL LAW OR REQUIRED BY A

1 STUDENT LOAN AGREEMENT, A STUDENT LOAN SERVICER SHALL INQUIRE
2 OF A BORROWER HOW TO APPLY AN OVERPAYMENT TO A STUDENT
3 EDUCATION LOAN. A BORROWER'S DIRECTION ON HOW TO APPLY AN
4 OVERPAYMENT TO A STUDENT EDUCATION LOAN STAYS IN EFFECT FOR ANY
5 FUTURE OVERPAYMENTS DURING THE TERM OF A STUDENT EDUCATION
6 LOAN UNTIL THE BORROWER PROVIDES DIFFERENT DIRECTIONS.

7 (b) FOR PURPOSES OF THIS SUBSECTION (3), "OVERPAYMENT"
8 MEANS A PAYMENT ON A STUDENT EDUCATION LOAN IN EXCESS OF THE
9 MONTHLY AMOUNT DUE FROM A BORROWER ON A STUDENT EDUCATION
10 LOAN, ALSO COMMONLY REFERRED TO AS A PREPAYMENT.

11 (4) (a) A STUDENT LOAN SERVICER SHALL APPLY PARTIAL
12 PAYMENTS IN A MANNER THAT MINIMIZES LATE FEES AND NEGATIVE
13 CREDIT REPORTING. WHERE LOANS ON A BORROWER'S STUDENT LOAN
14 ACCOUNT HAVE AN EQUAL LEVEL OF DELINQUENCY, A STUDENT LOAN
15 SERVICER SHALL APPLY PARTIAL PAYMENTS TO SATISFY AS MANY
16 INDIVIDUAL LOAN PAYMENTS AS POSSIBLE ON A BORROWER'S ACCOUNT.

17 (b) FOR PURPOSES OF THIS SUBSECTION (4), "PARTIAL PAYMENT"
18 MEANS A PAYMENT ON A STUDENT LOAN ACCOUNT THAT CONTAINS
19 MULTIPLE INDIVIDUAL LOANS IN AN AMOUNT LESS THAN THE AMOUNT
20 NECESSARY TO SATISFY THE OUTSTANDING PAYMENT DUE ON ALL LOANS
21 IN THE STUDENT LOAN ACCOUNT, ALSO COMMONLY REFERRED TO AS AN
22 UNDERPAYMENT.

23 (5) IN THE EVENT OF THE SALE, ASSIGNMENT, OR OTHER TRANSFER
24 OF THE SERVICING OF A STUDENT EDUCATION LOAN THAT RESULTS IN A
25 CHANGE IN THE IDENTITY OF THE PERSON TO WHOM A STUDENT LOAN
26 BORROWER IS REQUIRED TO SEND PAYMENTS OR DIRECT ANY
27 COMMUNICATION CONCERNING THE STUDENT EDUCATION LOAN, THE

1 FOLLOWING PROVISIONS APPLY:

2 (a) AS A CONDITION OF A SALE, AN ASSIGNMENT, OR ANY OTHER
3 TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN, A STUDENT
4 LOAN SERVICER SHALL REQUIRE THE NEW STUDENT LOAN SERVICER TO
5 HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS AVAILABLE TO A
6 STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE STUDENT
7 EDUCATION LOAN AND PRESERVE THE AVAILABILITY OF THE BENEFITS,
8 INCLUDING ANY BENEFITS FOR WHICH THE STUDENT LOAN BORROWER HAS
9 NOT YET QUALIFIED. IF A STUDENT LOAN SERVICER IS NOT ALSO THE LOAN
10 HOLDER OR IS NOT ACTING ON BEHALF OF THE LOAN HOLDER, THE
11 STUDENT LOAN SERVICER SATISFIES THE REQUIREMENT ESTABLISHED BY
12 THIS SUBSECTION (5)(a) BY PROVIDING THE NEW STUDENT LOAN SERVICER
13 WITH INFORMATION NECESSARY FOR THE NEW STUDENT LOAN SERVICER
14 TO HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS AVAILABLE TO A
15 STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE STUDENT
16 EDUCATION LOAN AND PRESERVE THE AVAILABILITY OF THE BENEFITS,
17 INCLUDING ANY BENEFITS FOR WHICH THE STUDENT LOAN BORROWER HAS
18 NOT YET QUALIFIED.

19 (b) A STUDENT LOAN SERVICER SHALL TRANSFER TO THE NEW
20 STUDENT LOAN SERVICER ALL RECORDS REGARDING THE STUDENT LOAN
21 BORROWER, THE ACCOUNT OF THE STUDENT LOAN BORROWER, AND THE
22 STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

23 (c) THE RECORDS REQUIRED UNDER SUBSECTION (5)(b) OF THIS
24 SECTION INCLUDE THE REPAYMENT STATUS OF THE STUDENT LOAN
25 BORROWER AND ANY BENEFITS ASSOCIATED WITH THE STUDENT
26 EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

27 (d) THE STUDENT LOAN SERVICER SHALL COMPLETE THE TRANSFER

1 OF RECORDS REQUIRED UNDER SUBSECTION (5)(b) OF THIS SECTION WITHIN
2 FORTY-FIVE DAYS AFTER THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF
3 THE SERVICING OF A STUDENT EDUCATION LOAN.

4 (e) THE PARTIES SHALL NOTIFY AFFECTED STUDENT LOAN
5 BORROWERS OF THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE
6 SERVICING OF A STUDENT EDUCATION LOAN AT LEAST SEVEN DAYS BEFORE
7 THE NEXT PAYMENT ON THE LOAN IS DUE. THE NOTICE MUST INCLUDE:

8 (I) THE IDENTITY OF THE NEW STUDENT LOAN SERVICER;
9 (II) THE EFFECTIVE DATE OF THE TRANSFER OF THE STUDENT LOAN
10 BORROWER'S STUDENT EDUCATION LOAN TO THE NEW STUDENT LOAN
11 SERVICER;
12 (III) THE DATE ON WHICH THE EXISTING STUDENT LOAN SERVICER
13 WILL NO LONGER ACCEPT PAYMENTS; AND
14 (IV) THE CONTACT INFORMATION FOR THE NEW STUDENT LOAN
15 SERVICER.

16 (6) A STUDENT LOAN SERVICER THAT SERVICES A STUDENT
17 EDUCATION LOAN SHALL ADOPT POLICIES AND PROCEDURES TO VERIFY
18 THAT THE STUDENT LOAN SERVICER HAS RECEIVED ALL RECORDS
19 REGARDING THE STUDENT LOAN BORROWER, THE ACCOUNT OF THE
20 STUDENT LOAN BORROWER, AND THE STUDENT EDUCATION LOAN OF THE
21 STUDENT LOAN BORROWER, INCLUDING THE REPAYMENT STATUS OF THE
22 STUDENT LOAN BORROWER AND ANY BENEFITS ASSOCIATED WITH THE
23 STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

24 **5-20-109. Prohibited acts of student loan servicers.** (1) A
25 STUDENT LOAN SERVICER SHALL NOT:
26 (a) DIRECTLY OR INDIRECTLY EMPLOY A SCHEME, A DEVICE, OR
27 ARTIFICE TO DEFRAUD OR MISLEAD STUDENT LOAN BORROWERS;

8 (c) OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION;

17 (g) REFUSE TO COMMUNICATE WITH AN AUTHORIZED
18 REPRESENTATIVE OF A STUDENT LOAN BORROWER WHO PROVIDES A
19 WRITTEN AUTHORIZATION SIGNED BY THE STUDENT LOAN BORROWER;
20 EXCEPT THAT THE STUDENT LOAN SERVICER MAY ADOPT PROCEDURES
21 REASONABLY RELATED TO VERIFYING THAT THE REPRESENTATIVE IS IN
22 FACT AUTHORIZED TO ACT ON BEHALF OF THE STUDENT LOAN BORROWER;

5-20-110. Powers and duties of the administrator - rules.

11 (1) THE ADMINISTRATOR MAY CONDUCT INVESTIGATIONS AND
12 EXAMINATIONS AS FOLLOWS:

27 (b) FOR THE PURPOSES OF INVESTIGATING VIOLATIONS OR

1 COMPLAINTS ARISING UNDER THIS ARTICLE 20 OR FOR THE PURPOSES OF
2 EXAMINATION, THE ADMINISTRATOR MAY REVIEW, INVESTIGATE, OR
3 EXAMINE ANY LICENSEE OR PERSON SUBJECT TO THIS ARTICLE 20 AS OFTEN
4 AS NECESSARY IN ORDER TO CARRY OUT THE PURPOSES OF THIS ARTICLE
5 20. THE ADMINISTRATOR MAY DIRECT, SUBPOENA, OR ORDER THE
6 ATTENDANCE OF AND EXAMINE UNDER OATH ANY PERSON WHOSE
7 TESTIMONY MAY BE REQUIRED ABOUT THE STUDENT EDUCATION LOAN OR
8 THE BUSINESS OR SUBJECT MATTER OF AN EXAMINATION OR
9 INVESTIGATION AND MAY DIRECT, SUBPOENA, OR ORDER THE PERSON TO
10 PRODUCE RECORDS THE ADMINISTRATOR CONSIDERS RELEVANT TO THE
11 INQUIRY.

12 (c) (I) IN MAKING AN EXAMINATION OR INVESTIGATION
13 AUTHORIZED BY THIS SECTION, THE ADMINISTRATOR MAY CONTROL
14 ACCESS TO ANY RECORDS OF THE LICENSEE OR PERSON UNDER
15 EXAMINATION OR INVESTIGATION. THE ADMINISTRATOR MAY TAKE
16 POSSESSION OF THE RECORDS OR PLACE A PERSON IN EXCLUSIVE CHARGE
17 OF THE RECORDS IN THE PLACE WHERE THEY ARE USUALLY KEPT.

18 (II) DURING THE PERIOD OF ADMINISTRATOR CONTROL PURSUANT
19 TO THIS SUBSECTION (1)(c), A PERSON MAY NOT REMOVE OR ATTEMPT TO
20 REMOVE ANY OF THE RECORDS EXCEPT PURSUANT TO A COURT ORDER OR
21 WITH THE CONSENT OF THE ADMINISTRATOR. UNLESS THE ADMINISTRATOR
22 HAS REASONABLE GROUNDS TO BELIEVE THAT THE RECORDS OF THE
23 LICENSEE OR PERSON HAVE BEEN, OR ARE AT RISK OF BEING, ALTERED OR
24 DESTROYED FOR PURPOSES OF CONCEALING A VIOLATION OF THIS ARTICLE
25 20, THE LICENSEE OR OWNER OF THE RECORDS MAY HAVE ACCESS TO THE
26 RECORDS AS NECESSARY TO CONDUCT ITS ORDINARY BUSINESS AFFAIRS.

27 (2) IN ORDER TO CARRY OUT THE PURPOSES OF THIS SECTION, THE

1 ADMINISTRATOR MAY:

2 (a) RETAIN ATTORNEYS, ACCOUNTANTS, OR OTHER PROFESSIONALS
3 AND SPECIALISTS AS EXAMINERS, AUDITORS, OR INVESTIGATORS TO
4 CONDUCT OR ASSIST IN THE CONDUCT OF EXAMINATIONS OR
5 INVESTIGATIONS;

6 (b) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER
7 GOVERNMENT OFFICIALS OR REGULATORY ASSOCIATIONS IN ORDER TO
8 IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN BY SHARING
9 RESOURCES, STANDARDIZED OR UNIFORM METHODS OR PROCEDURES, AND
10 RECORDS OR INFORMATION OBTAINED UNDER THIS SECTION;

11 (c) USE, HIRE, CONTRACT FOR, OR EMPLOY PUBLICLY OR
12 PRIVATELY AVAILABLE ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE
13 TO EXAMINE OR INVESTIGATE THE LICENSEE OR PERSON SUBJECT TO THIS
14 ARTICLE 20;

15 (d) ACCEPT AND RELY ON EXAMINATION OR INVESTIGATION
16 REPORTS MADE BY OTHER GOVERNMENT OFFICIALS WITHIN OR OUTSIDE
17 THIS STATE; AND

18 (e) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED
19 PUBLIC ACCOUNTANT OF THE LICENSEE OR PERSON SUBJECT TO THIS
20 ARTICLE 20 IN THE COURSE OF THAT PART OF THE EXAMINATION COVERING
21 THE SAME GENERAL SUBJECT MATTER AS THE AUDIT AND MAY
22 INCORPORATE THE AUDIT REPORT IN A REPORT OF EXAMINATION, REPORT
23 OF INVESTIGATION, OR OTHER WRITING OF THE ADMINISTRATOR.

24 (3) A PERSON SUBJECT TO INVESTIGATION OR EXAMINATION UNDER
25 THIS SECTION SHALL NOT KNOWINGLY WITHHOLD, ABSTRACT, REMOVE,
26 MUTILATE, OR DESTROY ANY RECORDS OR OTHER INFORMATION RELATING
27 TO INFORMATION REGULATED UNDER THIS ARTICLE 20.

12 **5-20-111. Compliance with federal law. A STUDENT LOAN**

13 SERVICER SHALL COMPLY WITH ALL APPLICABLE FEDERAL LAWS AND

14 REGULATIONS RELATING TO SERVICING, INCLUDING THE FEDERAL "TRUTH

15 IN LENDING ACT", 15 U.S.C. SEC. 1601 TO 1667f, AS AMENDED, AND THE

16 REGULATIONS ADOPTED PURSUANT TO THAT ACT. IN ADDITION TO ANY

17 OTHER REMEDIES PROVIDED BY LAW, A VIOLATION OF THAT ACT OR

18 REGULATIONS ADOPTED PURSUANT TO THAT ACT IS A VIOLATION OF THIS

19 ARTICLE 20 AND A BASIS UPON WHICH THE ADMINISTRATOR MAY TAKE

20 ENFORCEMENT ACTION PURSUANT TO THIS ARTICLE 20.

21 **5-20-112. Civil action.** (1) A VIOLATION OF THIS ARTICLE 20 IS A
22 DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF SECTION 6-1-105.

27 (a) ANY ACTUAL DAMAGES SUSTAINED BY THE STUDENT LOAN

1 BORROWER AS A RESULT OF THE FAILURE:

2 (b) A MONETARY AWARD EQUAL TO THREE TIMES THE TOTAL
3 AMOUNT THE STUDENT LOAN SERVICER COLLECTED FROM THE STUDENT
4 LOAN BORROWER IN VIOLATION OF THIS ARTICLE 20;

5 (c) PUNITIVE DAMAGES AS THE COURT MAY ALLOW; AND

6 (d) IN THE CASE OF ANY SUCCESSFUL ACTION BY A STUDENT LOAN
7 BORROWER TO ENFORCE THE LIABILITY SET OUT IN THIS SECTION, THE
8 COSTS OF THE ACTION, TOGETHER WITH REASONABLE ATTORNEY FEES AS
9 DETERMINED BY THE COURT.

10 (3) THE REMEDIES PROVIDED IN THIS SECTION ARE NOT THE
11 EXCLUSIVE REMEDIES AVAILABLE TO A STUDENT LOAN BORROWER.

12 **5-20-113. Application of administrative procedures -**
13 **provisions.** EXCEPT AS OTHERWISE PROVIDED, SECTIONS 24-4-102 TO
14 24-4-106 APPLY TO AND GOVERN ALL RULES PROMULGATED AND ALL
15 ADMINISTRATIVE ACTION TAKEN BY THE ADMINISTRATOR PURSUANT TO
16 THIS ARTICLE 20; EXCEPT THAT SECTION 24-4-104 (3) DOES NOT APPLY TO
17 ANY SUCH ACTION.

18 **5-20-114. Administrative enforcement orders.** (1) AFTER
19 NOTICE AND HEARING, THE ADMINISTRATOR MAY ORDER A STUDENT LOAN
20 SERVICER OR A PERSON ACTING IN THE STUDENT LOAN SERVICER'S BEHALF
21 TO CEASE AND DESIST FROM ENGAGING IN VIOLATIONS OF THIS ARTICLE 20
22 OR ANY RULE LAWFULLY ADOPTED OR ORDER LAWFULLY ISSUED
23 PURSUANT TO THIS ARTICLE 20. THE ORDER ISSUED BY THE
24 ADMINISTRATOR MAY ALSO REQUIRE THE STUDENT LOAN SERVICER OR
25 PERSON TO MAKE REFUNDS TO PERSONS OF UNLAWFUL CHARGES UNDER
26 THIS ARTICLE 20 AND AN ADMINISTRATIVE PENALTY OF UP TO ONE
27 THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION, ALL OR PART OF

1 WHICH MAY BE SPECIFICALLY DESIGNATED FOR CONSUMER AND CREDITOR
2 EDUCATIONAL PURPOSES.

3 (2) A RESPONDENT AGGRIEVED BY AN ORDER OF THE
4 ADMINISTRATOR MAY OBTAIN JUDICIAL REVIEW OF THE ORDER IN THE
5 COLORADO COURT OF APPEALS. THE ADMINISTRATOR MAY OBTAIN AN
6 ORDER OF THE COURT FOR ENFORCEMENT OF THE ADMINISTRATOR'S ORDER
7 IN THE DISTRICT COURT UNDER SECTION 24-4-106. ALL PROCEEDINGS
8 UNDER THIS SECTION ARE GOVERNED BY SECTIONS 24-4-105 AND
9 24-4-106.

10 **5-20-115. Assurance of discontinuance.** IF IT IS CLAIMED THAT
11 A PERSON HAS VIOLATED THIS ARTICLE 20, THE ADMINISTRATOR MAY
12 ACCEPT AN ASSURANCE IN WRITING THAT THE PERSON WILL NOT ENGAGE
13 IN THE CONDUCT IN THE FUTURE. THE ASSURANCE MAY ALSO REQUIRE THE
14 PERSON TO MAKE REFUNDS TO PERSONS OF UNLAWFUL CHARGES UNDER
15 THIS ARTICLE 20, PAY A PENALTY AUTHORIZED IN SECTION 5-20-114 (1),
16 ALL OR PART OF WHICH MAY BE SPECIFICALLY DESIGNATED FOR
17 CONSUMER AND CREDITOR EDUCATIONAL PURPOSES, AND REIMBURSE THE
18 ADMINISTRATOR FOR THE ADMINISTRATOR'S REASONABLE COSTS
19 INCURRED IN INVESTIGATING THE CONDUCT. IF A PERSON GIVING AN
20 ASSURANCE OF DISCONTINUANCE FAILS TO COMPLY WITH ITS TERMS, THE
21 ASSURANCE IS EVIDENCE THAT PRIOR TO THE ASSURANCE THE PERSON
22 ENGAGED IN THE CONDUCT DESCRIBED IN THE ASSURANCE.

23 **5-20-116. Injunctions.** THE ADMINISTRATOR MAY BRING A CIVIL
24 ACTION TO RESTRAIN A PERSON FROM VIOLATING THIS ARTICLE 20 OR
25 RULES PROMULGATED PURSUANT TO THIS ARTICLE 20 AND FOR OTHER
26 APPROPRIATE RELIEF, INCLUDING SUCH ORDERS OR JUDGMENTS AS MAY BE
27 NECESSARY TO COMPLETELY COMPENSATE OR RESTORE ANY PERSON

1 AFFECTION BY THE VIOLATION TO THE PERSON'S ORIGINAL POSITION. THE
2 ADMINISTRATOR MAY ALSO APPLY FOR A TEMPORARY RESTRAINING ORDER
3 OR A PRELIMINARY INJUNCTION AGAINST A RESPONDENT PENDING FINAL
4 DETERMINATION OF PROCEEDINGS. NO BOND OR OTHER SECURITY IS
5 REQUIRED OF THE ADMINISTRATOR BEFORE RELIEF UNDER THIS SECTION
6 MAY BE GRANTED.

7 **5-20-117. Civil actions by the administrator.** THE
8 ADMINISTRATOR MAY BRING A CIVIL ACTION AGAINST A STUDENT LOAN
9 SERVICER FOR ANY VIOLATION OF THIS ARTICLE 20. AN ACTION MAY
10 RELATE TO TRANSACTIONS WITH MORE THAN ONE PERSON. THE COURT
11 MAY ORDER A STUDENT LOAN SERVICER TO REFUND TO A PERSON ANY
12 CHARGES COLLECTED IN VIOLATION OF THIS ARTICLE 20 AND MAY ALSO
13 ASSESS CIVIL PENALTIES AGAINST THE STUDENT LOAN SERVICER AS SET
14 FORTH IN SECTION 5-20-112 (2). IF THE ADMINISTRATOR PREVAILS IN AN
15 ACTION BROUGHT UNDER THIS SECTION, THE ADMINISTRATOR MAY
16 RECOVER REASONABLE COSTS IN INVESTIGATING AND BRINGING THE
17 ACTION AND MAY RECOVER REASONABLE ATTORNEY FEES.

18 **5-20-118. Limitations.** NOTWITHSTANDING ARTICLE 80 OF TITLE
19 13, ALL ACTIONS BROUGHT UNDER THIS ARTICLE 20 MUST BE COMMENCED
20 WITHIN FOUR YEARS AFTER THE DATE ON WHICH ANY VIOLATION OF THIS
21 ARTICLE 20 OCCURRED OR THE DATE ON WHICH THE LAST IN A SERIES OF
22 SUCH ACTS OR PRACTICES OCCURRED OR WITHIN FOUR YEARS AFTER THE
23 PLAINTIFF DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE
24 SHOULD HAVE DISCOVERED THE OCCURRENCE OF A VIOLATION OF THIS
25 ARTICLE 20; EXCEPT THAT THE PERIOD OF LIMITATION PROVIDED IN THIS
26 SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE PLAINTIFF
27 PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS CAUSED

1 BY THE DEFENDANT ENGAGING IN CONDUCT CALCULATED TO INDUCE THE
2 PLAINTIFF TO REFRAIN FROM OR POSTPONE THE COMMENCEMENT OF THE
3 ACTION.

4 **5-20-119. Confidential information.** (1) THE ADMINISTRATOR
5 SHALL NOT MAKE PUBLIC THE NAME OR IDENTITY OF A PERSON WHOSE
6 ACTS OR CONDUCT THE ADMINISTRATOR INVESTIGATES OR EXAMINES
7 PURSUANT TO THIS ARTICLE 20 OR THE FACTS DISCLOSED IN THE
8 INVESTIGATION OR EXAMINATION.

9 (2) THE ADMINISTRATOR MAY DISCLOSE LICENSE APPLICATION
10 AND RENEWAL RECORDS PROVIDED TO THE ADMINISTRATOR AND OTHER
11 CONTENTS OF LICENSE RECORDS MAINTAINED PURSUANT TO THIS ARTICLE
12 20, BUT THE ADMINISTRATOR SHALL NOT MAKE PUBLIC THE CONFIDENTIAL
13 INFORMATION CONTAINED IN THE RECORDS.

14 (3) THE RESTRICTIONS ON THE DISCLOSURE OF INFORMATION IN
15 SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO DISCLOSURES
16 BY THE ADMINISTRATOR IN ACTIONS OR ADMINISTRATIVE ENFORCEMENT
17 PROCEEDINGS PURSUANT TO THIS ARTICLE 20.

18 **SECTION 3.** In Colorado Revised Statutes, 6-1-105, add (1)(ll)
19 as follows:

20 **6-1-105. Deceptive trade practices.** (1) A person engages in a
21 deceptive trade practice when, in the course of the person's business,
22 vocation, or occupation, the person:

23 (ll) VIOLATES ARTICLE 20 OF TITLE 5.

24 **SECTION 4.** In Colorado Revised Statutes, 13-4-102, add
25 (2)(mm) as follows:

26 **13-4-102. Jurisdiction.** (2) The court of appeals has initial
27 jurisdiction to:

3 **SECTION 5. Appropriation.** For the 2019-20 state fiscal year,
4 \$115,273 is appropriated to the department of law. This appropriation is
5 from the general fund and is based on an assumption that the department
6 will require an additional 1.4 FTE. To implement this act, the department
7 may use this appropriation for the consumer credit unit.

SECTION 6. Act subject to petition - effective date -

applicability. (1) This act takes effect January 1, 2020; 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 the ninety-day period after final adjournment of the general assembly, 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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