

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**

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**SENATE SPONSORSHIP**

**Winter and Fenberg,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Education  
Finance  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

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

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**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

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.

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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 TRANSACT BUSINESS IN THIS STATE; OR  
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 **5-20-104. Student loan ombudsperson - report - fund - rules**

17 - repeal. (1) THE ADMINISTRATOR SHALL DESIGNATE, SUPPORT, AND  
18 MAINTAIN A STUDENT LOAN OMBUDSPERSON TO PROVIDE TIMELY  
19 ASSISTANCE TO STUDENT LOAN BORROWERS. THE STUDENT LOAN  
20 OMBUDSPERSON, IN CONSULTATION WITH THE ADMINISTRATOR, SHALL:

21 (a) **Complaints.** RECEIVE, REVIEW, AND ATTEMPT TO RESOLVE  
22 COMPLAINTS FROM STUDENT LOAN BORROWERS, INCLUDING IN  
23 COLLABORATION WITH INSTITUTIONS OF HIGHER EDUCATION, STUDENT  
24 LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN STUDENT LOAN  
25 LENDING, INCLUDING ORIGINATORS SERVICING THEIR OWN STUDENT  
26 EDUCATION LOANS;

27 (b) **Data.** COMPILE AND ANALYZE DATA ON STUDENT LOAN

1       BORROWER COMPLAINTS AS DESCRIBED IN SUBSECTION (1)(a) OF THIS  
2       SECTION;

3       (c)     **Assistance.** ASSIST STUDENT LOAN BORROWERS IN  
4       UNDERSTANDING THEIR RIGHTS AND RESPONSIBILITIES UNDER THE TERMS  
5       OF STUDENT EDUCATION LOANS;

6       (d)     **Information.** PROVIDE INFORMATION TO THE PUBLIC,  
7       AGENCIES, LEGISLATORS, AND OTHERS REGARDING THE PROBLEMS AND  
8       CONCERNS OF STUDENT LOAN BORROWERS AND MAKE RECOMMENDATIONS  
9       FOR RESOLVING THOSE PROBLEMS AND CONCERNS;

10       (e)     **Laws, rules, and policies.** ANALYZE AND MONITOR THE  
11       DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL  
12       LAWS, ORDINANCES, REGULATIONS, RULES, AND POLICIES RELATING TO  
13       STUDENT LOAN BORROWERS AND RECOMMEND ANY NECESSARY CHANGES;

14       (f)     **Student loan history.** REVIEW THE COMPLETE STUDENT  
15       EDUCATION LOAN HISTORY FOR A STUDENT LOAN BORROWER WHO  
16       PROVIDES WRITTEN CONSENT FOR THE REVIEW;

17       (g)     **Availability.** DISSEMINATE INFORMATION CONCERNING THE  
18       AVAILABILITY OF THE STUDENT LOAN OMBUDSPERSON TO ASSIST STUDENT  
19       LOAN BORROWERS AND POTENTIAL STUDENT LOAN BORROWERS,  
20       INCLUDING DISSEMINATING THE INFORMATION TO INSTITUTIONS OF HIGHER  
21       EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN  
22       STUDENT EDUCATION LOAN LENDING WITH ANY SERVICING CONCERNS;

23       (h)     **Education course.** ESTABLISH AND MAINTAIN A STUDENT  
24       LOAN BORROWER EDUCATION COURSE WITHIN EXISTING RESOURCES THAT  
25       INCLUDES EDUCATIONAL PRESENTATIONS AND MATERIALS REGARDING  
26       STUDENT EDUCATION LOANS. THE COURSE MUST INCLUDE AT LEAST KEY  
27       LOAN TERMS, DOCUMENTATION REQUIREMENTS, MONTHLY PAYMENT

1       OBLIGATIONS, INCOME-BASED REPAYMENT OPTIONS, LOAN FORGIVENESS,  
2       AND DISCLOSURE REQUIREMENTS.

3       (i) Other actions. TAKE ANY OTHER ACTIONS NECESSARY TO  
4       FULFILL THE DUTIES OF THE STUDENT LOAN OMBUDSPERSON AS SET FORTH  
5       IN THIS SECTION.

6       (2) (a) Annual report. THE ADMINISTRATOR SHALL SUBMIT A  
7       REPORT BY JANUARY 1 OF EACH YEAR TO THE COMMITTEES OF REFERENCE  
8       OF THE GENERAL ASSEMBLY HAVING JURISDICTION OVER EDUCATION,  
9       INSURANCE, AND FINANCIAL SERVICES MATTERS. THE REPORT MUST  
10       INCLUDE:

11       (I) Implementation. A DESCRIPTION OF ACTIONS TAKEN WITH  
12       RESPECT TO THE IMPLEMENTATION OF THIS SECTION;

13       (II) Effectiveness. AN ASSESSMENT OF THE OVERALL  
14       EFFECTIVENESS OF THE STUDENT LOAN OMBUDSPERSON; AND

15       (III) Additional steps. RECOMMENDATIONS REGARDING  
16       ADDITIONAL STEPS FOR THE ADMINISTRATOR TO GAIN REGULATORY  
17       CONTROL OVER LICENSING AND ENFORCEMENT WITH RESPECT TO STUDENT  
18       LOAN SERVICERS.

19       (b) This subsection (2) is repealed, effective September 1,  
20       2023.

21       (3) Student loan ombudsperson and student loan servicer  
22       licensing fund. (a) THE STUDENT LOAN OMBUDSPERSON AND STUDENT  
23       LOAN SERVICER LICENSING FUND, REFERRED TO IN THIS SECTION AS THE  
24       "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND  
25       CONSISTS OF LICENSING AND INVESTIGATION FEES COLLECTED PURSUANT  
26       TO SECTION 5-20-107, CIVIL PENALTIES COLLECTED PURSUANT TO  
27       SECTIONS 5-20-114 AND 5-20-117, ANY OTHER MONEY REQUIRED BY LAW

1 TO BE DEPOSITED IN THE FUND, AND ANY OTHER MONEY THAT THE  
2 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

3 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
4 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
5 FUND TO THE FUND.

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

9 **5-20-105. License required.** A PERSON SHALL NOT ACT AS A  
10 STUDENT LOAN SERVICER, DIRECTLY OR INDIRECTLY, WITHOUT FIRST  
11 OBTAINING A STUDENT LOAN SERVICING LICENSE FROM THE  
12 ADMINISTRATOR PURSUANT TO THIS ARTICLE 20.

13 **5-20-106. Licensure of student loan servicers.** (1) **Automatic**  
14 **issuance of license for federal student loan servicing contractors.**

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

22 (b) **Automatic license.** WITH REGARD TO A PERSON DEEMED  
23 EXEMPT BY THIS SUBSECTION (1), THE ADMINISTRATOR SHALL:

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

26 (II) AUTOMATICALLY ISSUE A RENEWAL LICENSE UPON PAYMENT  
27 OF THE FEES REQUIRED BY SECTION 5-20-107 (1)(b); AND

24 **(e) Preservation of authorities. With respect to student loan**  
25 **SERVICING NOT CONDUCTED PURSUANT TO A CONTRACT AWARDED BY THE**  
26 **UNITED STATES SECRETARY OF EDUCATION UNDER 20 U.S.C. SEC. 1087f,**  
27 **NOTHING IN THIS SECTION PREVENTS THE ADMINISTRATOR FROM ISSUING,**

1       OR FILING A CIVIL ACTION FOR, AN ORDER TO TEMPORARILY OR  
2       PERMANENTLY PROHIBIT OR BAR ANY PERSON FROM ACTING AS A STUDENT  
3       LOAN SERVICER OR VIOLATING APPLICABLE LAW.

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

10           (I) A FINANCIAL STATEMENT PREPARED BY A CERTIFIED PUBLIC  
11       ACCOUNTANT OR A PUBLIC ACCOUNTANT, A GENERAL PARTNER IF THE  
12       APPLICANT IS A PARTNERSHIP, A CORPORATE OFFICER IF THE APPLICANT IS  
13       A CORPORATION, OR A MEMBER DULY AUTHORIZED TO EXECUTE FINANCIAL  
14       STATEMENTS IF THE APPLICANT IS A LIMITED LIABILITY COMPANY OR  
15       ASSOCIATION;

16           (II) INFORMATION REGARDING THE HISTORY OF CRIMINAL  
17       CONVICTIONS OF THE FOLLOWING:

18           (A) THE APPLICANT;

19           (B) PARTNERS OF THE APPLICANT, IF THE APPLICANT IS IN A  
20       PARTNERSHIP;

21           (C) MEMBERS OF THE APPLICANT, IF THE APPLICANT IS A LIMITED  
22       LIABILITY COMPANY OR ASSOCIATION; OR

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

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

7 (b) THE ADMINISTRATOR MAY ISSUE A LICENSE PURSUANT TO THIS

## 8 SECTION IF THE ADMINISTRATOR FINDS THAT:

9 (I) THE APPLICANT'S FINANCIAL CONDITION IS SOUND;

**14 (III) IF THE APPLICANT IS:**

17                   (B) A PARTNERSHIP, EACH PARTNER IS IN ALL RESPECTS PROPERLY  
18                   QUALIFIED AND OF GOOD CHARACTER:

19                   (C) A LIMITED LIABILITY COMPANY OR ASSOCIATION, EACH  
20                   MEMBER IS IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD  
21                   CHARACTER; OR

22 (D) A CORPORATION, THE PRESIDENT, CHAIR OF THE EXECUTIVE  
23 COMMITTEE, SENIOR OFFICER RESPONSIBLE FOR THE CORPORATION'S  
24 BUSINESS, CHIEF FINANCIAL OFFICER OR ANY OTHER PERSON WHO  
25 PERFORMS SIMILAR FUNCTIONS AS DETERMINED BY THE ADMINISTRATOR,  
26 EACH DIRECTOR, EACH TRUSTEE, AND EACH SHAREHOLDER OWNING TEN  
27 PERCENT OR MORE OF EACH CLASS OF THE SECURITIES OF THE

1 CORPORATION ARE IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD  
2 CHARACTER;

3 (IV) NO PERSON ACTING ON BEHALF OF THE APPLICANT  
4 KNOWINGLY HAS MADE AN INCORRECT STATEMENT OF A MATERIAL FACT  
5 IN THE APPLICATION OR IN ANY REPORT OR STATEMENT MADE PURSUANT  
6 TO THIS ARTICLE 20; AND

7 (V) THE APPLICANT HAS MET ANY OTHER REQUIREMENTS AS  
8 DETERMINED BY THE ADMINISTRATOR.

9 (4) License expiration. A LICENSE ISSUED PURSUANT TO THIS  
10 SECTION EXPIRES EACH JANUARY 31 UNLESS RENEWED OR EARLIER  
11 SURRENDERED, SUSPENDED, OR REVOKED PURSUANT TO THIS ARTICLE 20.  
12 NO LATER THAN FIFTEEN DAYS AFTER A LICENSEE CEASES TO ENGAGE IN  
13 THE BUSINESS OF SERVICING IN THIS STATE FOR ANY REASON, INCLUDING  
14 A BUSINESS DECISION TO TERMINATE OPERATIONS IN THIS STATE, LICENSE  
15 REVOCATION, BANKRUPTCY, OR VOLUNTARY DISSOLUTION, THE LICENSEE  
16 SHALL PROVIDE WRITTEN NOTICE OF SURRENDER TO THE ADMINISTRATOR  
17 AND SHALL SURRENDER TO THE ADMINISTRATOR ITS LICENSE FOR EACH  
18 LOCATION IN WHICH THE LICENSEE HAS CEASED TO ENGAGE IN SERVICING.  
19 THE WRITTEN NOTICE OF SURRENDER MUST IDENTIFY THE LOCATION  
20 WHERE THE RECORDS OF THE LICENSEE WILL BE STORED AND THE NAME,  
21 ADDRESS, AND TELEPHONE NUMBER OF A PERSON AUTHORIZED TO PROVIDE  
22 ACCESS TO THE RECORDS. THE SURRENDER OF A LICENSE DOES NOT  
23 REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL LIABILITY  
24 ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE SURRENDER  
25 OF THE LICENSE, INCLUDING ANY ADMINISTRATIVE ACTIONS UNDERTAKEN  
26 BY THE ADMINISTRATOR TO REVOKE OR SUSPEND A LICENSE, ASSESS A  
27 CIVIL PENALTY, ORDER RESTITUTION, OR EXERCISE ANY OTHER AUTHORITY

1 PROVIDED TO THE ADMINISTRATOR.

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

11 (b) If an application for a renewal license has been filed  
12 with the administrator on or before the date the license expires,  
13 the license sought to be renewed continues in effect until the  
14 issuance by the administrator of the renewal license applied for  
15 or until the administrator has notified the licensee in writing of  
16 the administrator's refusal to issue the renewal license  
17 together with the grounds upon which the refusal is based.

18 (c) The administrator may refuse to issue a renewal  
19 license on any ground on which the administrator may refuse to  
20 issue an initial license.

21 (6) Dishonored check. If a check filed with the  
22 administrator to pay a license, investigation, or renewal fee  
23 under this section is dishonored, the administrator shall  
24 summarily suspend the license or the renewal license that has  
25 been issued but is not yet effective in accordance with section  
26 24-4-104 (4); except that the full investigation requirement  
27 specified in section 24-4-104 (4)(a) does not apply. The

1 ADMINISTRATOR SHALL GIVE THE LICENSEE NOTICE OF THE SUMMARY  
2 SUSPENSION PENDING PROCEEDINGS FOR REVOCATION OR REFUSAL TO  
3 RENEW AND AN OPPORTUNITY FOR A HEARING ON THE ACTIONS IN  
4 ACCORDANCE WITH SECTION 5-20-113.

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

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

22 **(9) Change of license notification.** A LICENSEE UNDER THIS  
23 SECTION SHALL NOT ACT WITHIN THIS STATE AS A STUDENT LOAN  
24 SERVICER UNDER ANY NAME OR AT ANY PLACE OF BUSINESS OTHER THAN  
25 THOSE NAMED IN THE LICENSE. A LICENSEE SHALL GIVE PRIOR WRITTEN  
26 NOTICE TO THE ADMINISTRATOR OF A CHANGE OF BUSINESS LOCATION. A  
27 LICENSEE SHALL NOT OPERATE MORE THAN ONE PLACE OF BUSINESS UNDER

1       THE SAME LICENSE, BUT THE ADMINISTRATOR MAY ISSUE MORE THAN ONE  
2       LICENSE TO A LICENSEE THAT COMPLIES WITH THIS ARTICLE 20 AS TO EACH  
3       LICENSE. A LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE.

4           **(10) Records retention - records request.** A STUDENT LOAN  
5        SERVICER SHALL MAINTAIN ADEQUATE RECORDS OF EACH STUDENT  
6        EDUCATION LOAN TRANSACTION FOR NOT LESS THAN TWO YEARS AFTER  
7        THE FINAL PAYMENT ON THE STUDENT EDUCATION LOAN OR THE  
8        ASSIGNMENT OF THE STUDENT EDUCATION LOAN, WHICHEVER OCCURS  
9        FIRST, OR EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW, A FEDERAL  
10      STUDENT EDUCATION LOAN AGREEMENT, OR A CONTRACT BETWEEN THE  
11      FEDERAL GOVERNMENT AND A LICENSEE. UPON REQUEST BY THE  
12      ADMINISTRATOR, A STUDENT LOAN SERVICER SHALL MAKE THE RECORDS  
13      AVAILABLE OR SHALL SEND THE RECORDS TO THE ADMINISTRATOR BY  
14      REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY  
15      EXPRESS DELIVERY CARRIER THAT PROVIDES A DATED DELIVERY RECEIPT,  
16      NOT LATER THAN FIVE BUSINESS DAYS AFTER REQUESTED BY THE  
17      ADMINISTRATOR. UPON A LICENSEE'S REQUEST, THE ADMINISTRATOR MAY  
18      GRANT THE LICENSEE ADDITIONAL TIME TO MAKE THE RECORDS  
19      AVAILABLE OR TO SEND THE RECORDS TO THE ADMINISTRATOR.

20           **(11) License suspension and revocation - refusal to renew.**  
21        (a) THE ADMINISTRATOR MAY SUSPEND, REVOKE, ANNUL, LIMIT, MODIFY,  
22        OR REFUSE TO RENEW A LICENSE ISSUED PURSUANT TO SUBSECTION (2) OF  
23        THIS SECTION OR TAKE ANY OTHER ACTION IN ACCORDANCE WITH THIS  
24        ARTICLE 20 IF THE ADMINISTRATOR FINDS ONE OR MORE OF THE  
25        FOLLOWING:

26            (I) THE LICENSEE HAS VIOLATED ANY PROVISION OF THIS ARTICLE  
27        20 OR ANY RULE LAWFULLY ADOPTED OR ORDER LAWFULLY ISSUED

1       PURSUANT TO AND WITHIN THE AUTHORITY OF THIS ARTICLE 20; OR  
2       (II) ANY FACT OR CONDITION EXISTS THAT, IF IT HAD EXISTED AT  
3       THE TIME OF THE ORIGINAL APPLICATION FOR THE LICENSE, CLEARLY  
4       WOULD HAVE WARRANTED A DENIAL OF THE LICENSE.

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

7       **5-20-107. License and investigation fees.** (1) A PERSON  
8       APPLYING FOR LICENSURE UNDER SECTION 5-20-106 (1) OR (2) SHALL PAY  
9       THE FOLLOWING NONREFUNDABLE FEES ESTABLISHED BY THE  
10       ADMINISTRATOR:

11       (a) INITIAL LICENSE FEE OF AT LEAST ONE THOUSAND DOLLARS;  
12       (b) ANNUAL RENEWAL FEE OF AT LEAST ONE THOUSAND DOLLARS;  
13       AND  
14       (c) INVESTIGATION FEE.

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

22       **5-20-108. Affirmative acts required of student loan servicers**  
23       - definitions. (1) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW,  
24       FEDERAL STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT  
25       BETWEEN THE FEDERAL GOVERNMENT AND A STUDENT LOAN SERVICER, A  
26       STUDENT LOAN SERVICER SHALL TAKE THE ACTIONS SPECIFIED IN THIS  
27       SECTION.

1                   (2) (a) A STUDENT LOAN SERVICER SHALL RESPOND TO A WRITTEN  
2                   INQUIRY FROM A STUDENT LOAN BORROWER, THE REPRESENTATIVE OF A  
3                   STUDENT LOAN BORROWER, OR THE STUDENT LOAN OMBUDSPERSON  
4                   WITHIN TEN BUSINESS DAYS AFTER RECEIPT OF THE REQUEST AND, WITHIN  
5                   THIRTY BUSINESS DAYS AFTER RECEIPT OF THE REQUEST, PROVIDE  
6                   INFORMATION RELATING TO THE REQUEST AND, IF APPLICABLE, THE  
7                   ACTION THE STUDENT LOAN SERVICER WILL TAKE TO CORRECT THE  
8                   ACCOUNT OR AN EXPLANATION FOR THE STUDENT LOAN SERVICER'S  
9                   POSITION THAT THE BORROWER'S ACCOUNT IS CORRECT.

10                   (b) THE THIRTY-DAY PERIOD DESCRIBED IN SUBSECTION (2)(a) OF  
11                   THIS SECTION MAY BE EXTENDED FOR NOT MORE THAN FIFTEEN DAYS IF,  
12                   BEFORE THE END OF THE THIRTY-DAY PERIOD, THE STUDENT LOAN  
13                   SERVICER NOTIFIES THE BORROWER, THE BORROWER'S REPRESENTATIVE,  
14                   OR THE OMBUDSPERSON, AS APPLICABLE, OF THE EXTENSION AND THE  
15                   REASONS FOR THE DELAY IN RESPONDING.

16                   (c) AFTER RECEIPT OF A WRITTEN REQUEST RELATED TO A DISPUTE  
17                   ON A BORROWER'S PAYMENT ON A STUDENT EDUCATION LOAN, A STUDENT  
18                   LOAN SERVICER SHALL NOT, FOR THE SIXTY DAYS FOLLOWING RECEIPT,  
19                   FURNISH ADVERSE INFORMATION TO A CONSUMER REPORTING AGENCY  
20                   REGARDING A PAYMENT THAT IS THE SUBJECT OF THE WRITTEN INQUIRY.

21                   (3) (a) EXCEPT AS PROVIDED IN FEDERAL LAW OR REQUIRED BY A  
22                   STUDENT LOAN AGREEMENT, A STUDENT LOAN SERVICER SHALL INQUIRE  
23                   OF A BORROWER HOW TO APPLY AN OVERPAYMENT TO A STUDENT  
24                   EDUCATION LOAN. A BORROWER'S DIRECTION ON HOW TO APPLY AN  
25                   OVERPAYMENT TO A STUDENT EDUCATION LOAN STAYS IN EFFECT FOR ANY  
26                   FUTURE OVERPAYMENTS DURING THE TERM OF A STUDENT EDUCATION  
27                   LOAN UNTIL THE BORROWER PROVIDES DIFFERENT DIRECTIONS.

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

5                   **(4) (a) A STUDENT LOAN SERVICER SHALL APPLY PARTIAL**  
6    PAYMENTS IN A MANNER THAT MINIMIZES LATE FEES AND NEGATIVE  
7    CREDIT REPORTING. WHERE LOANS ON A BORROWER'S STUDENT LOAN  
8    ACCOUNT HAVE AN EQUAL LEVEL OF DELINQUENCY, A STUDENT LOAN  
9    SERVICER SHALL APPLY PARTIAL PAYMENTS TO SATISFY AS MANY  
10   INDIVIDUAL LOAN PAYMENTS AS POSSIBLE ON A BORROWER'S ACCOUNT.

11                  **(b) FOR PURPOSES OF THIS SUBSECTION (4), "PARTIAL PAYMENT"**  
12    MEANS A PAYMENT ON A STUDENT LOAN ACCOUNT THAT CONTAINS  
13   MULTIPLE INDIVIDUAL LOANS IN AN AMOUNT LESS THAN THE AMOUNT  
14   NECESSARY TO SATISFY THE OUTSTANDING PAYMENT DUE ON ALL LOANS  
15   IN THE STUDENT LOAN ACCOUNT, ALSO COMMONLY REFERRED TO AS AN  
16   UNDERPAYMENT.

17                  **(5) IN THE EVENT OF THE SALE, ASSIGNMENT, OR OTHER TRANSFER**  
18    OF THE SERVICING OF A STUDENT EDUCATION LOAN THAT RESULTS IN A  
19   CHANGE IN THE IDENTITY OF THE PERSON TO WHOM A STUDENT LOAN  
20   BORROWER IS REQUIRED TO SEND PAYMENTS OR DIRECT ANY  
21   COMMUNICATION CONCERNING THE STUDENT EDUCATION LOAN, THE  
22   FOLLOWING PROVISIONS APPLY:

23                  **(a) AS A CONDITION OF A SALE, AN ASSIGNMENT, OR ANY OTHER**  
24    TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN, A STUDENT  
25   LOAN SERVICER SHALL REQUIRE THE NEW STUDENT LOAN SERVICER TO  
26   HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS AVAILABLE TO A  
27   STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE STUDENT

1       EDUCATION LOAN AND PRESERVE THE AVAILABILITY OF THE BENEFITS,  
2       INCLUDING ANY BENEFITS FOR WHICH THE STUDENT LOAN BORROWER HAS  
3       NOT YET QUALIFIED.

4           (b) A STUDENT LOAN SERVICER SHALL TRANSFER TO THE NEW  
5       STUDENT LOAN SERVICER ALL RECORDS REGARDING THE STUDENT LOAN  
6       BORROWER, THE ACCOUNT OF THE STUDENT LOAN BORROWER, AND THE  
7       STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

8           (c) THE RECORDS REQUIRED UNDER SUBSECTION (5)(b) OF THIS  
9       SECTION INCLUDE THE REPAYMENT STATUS OF THE STUDENT LOAN  
10       BORROWER AND ANY BENEFITS ASSOCIATED WITH THE STUDENT  
11       EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

12           (d) THE STUDENT LOAN SERVICER SHALL COMPLETE THE TRANSFER  
13       OF RECORDS REQUIRED UNDER SUBSECTION (5)(b) OF THIS SECTION WITHIN  
14       FORTY-FIVE DAYS AFTER THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF  
15       THE SERVICING OF A STUDENT EDUCATION LOAN.

16           (e) THE PARTIES SHALL COMPLETE THE SALE, ASSIGNMENT, OR  
17       OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN AT  
18       LEAST SEVEN DAYS BEFORE THE NEXT PAYMENT ON THE LOAN IS DUE.

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

27       **5-20-109. Prohibited acts of student loan servicers. (1) A**

1       STUDENT LOAN SERVICER SHALL NOT:

2       (a) DIRECTLY OR INDIRECTLY EMPLOY A SCHEME, A DEVICE, OR  
3       ARTIFICE TO DEFRAUD OR MISLEAD STUDENT LOAN BORROWERS;

4       (b) ENGAGE IN AN UNFAIR OR DECEPTIVE PRACTICE TOWARD ANY  
5       PERSON OR MISREPRESENT OR OMIT ANY MATERIAL INFORMATION IN  
6       CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION LOAN,  
7       INCLUDING MISREPRESENTING THE AMOUNT, NATURE, OR TERMS OF ANY  
8       FEES OR PAYMENT DUE OR CLAIMED TO BE DUE ON A STUDENT EDUCATION  
9       LOAN, THE TERMS AND CONDITIONS OF THE LOAN AGREEMENT, OR THE  
10       STUDENT LOAN BORROWER'S OBLIGATIONS UNDER THE LOAN;

11       (c) OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION;

12       (d) MISAPPLY STUDENT EDUCATION LOAN PAYMENTS TO THE  
13       OUTSTANDING BALANCE OF A STUDENT EDUCATION LOAN;

14       (e) PROVIDE INACCURATE INFORMATION TO A CONSUMER  
15       REPORTING AGENCY;

16       (f) FAIL TO REPORT BOTH THE FAVORABLE AND UNFAVORABLE  
17       PAYMENT HISTORY OF A STUDENT LOAN BORROWER TO A CONSUMER  
18       REPORTING AGENCY AT LEAST ANNUALLY IF THE STUDENT LOAN SERVICER  
19       REGULARLY REPORTS INFORMATION TO A CONSUMER REPORTING AGENCY;

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

26       (h) MAKE ANY FALSE STATEMENT OR OMIT ANY MATERIAL FACT  
27       IN CONNECTION WITH INFORMATION OR REPORTS FILED WITH A

1       GOVERNMENTAL AGENCY OR IN CONNECTION WITH AN INVESTIGATION  
2       CONDUCTED BY THE ADMINISTRATOR OR ANOTHER GOVERNMENTAL  
3       AGENCY; OR

4           (i) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, FEDERAL  
5       STUDENT LOAN AGREEMENTS, OR A CONTRACT BETWEEN THE FEDERAL  
6       GOVERNMENT AND A STUDENT LOAN SERVICER, FAIL TO PROPERLY  
7       EVALUATE A STUDENT LOAN BORROWER FOR AN INCOME-BASED OR OTHER  
8       STUDENT LOAN REPAYMENT PROGRAM OR FOR ELIGIBILITY FOR A PUBLIC  
9       SERVICE LOAN FORGIVENESS PROGRAM BEFORE PLACING THE STUDENT  
10      LOAN BORROWER IN FORBEARANCE OR DEFAULT, IF AN INCOME-BASED  
11      REPAYMENT OR OTHER PROGRAM IS AVAILABLE TO THE STUDENT LOAN  
12      BORROWER.

13       **5-20-110. Powers and duties of the administrator - rules.**

14      (1)    THE ADMINISTRATOR MAY CONDUCT INVESTIGATIONS AND  
15      EXAMINATIONS AS FOLLOWS:

16           (a) FOR PURPOSES OF INITIAL LICENSING, LICENSE RENEWAL,  
17      LICENSE SUSPENSION, LICENSE REVOCATION OR TERMINATION, OR  
18      GENERAL OR SPECIFIC INQUIRY OR INVESTIGATION TO DETERMINE  
19      COMPLIANCE WITH THIS ARTICLE 20, THE ADMINISTRATOR MAY ACCESS,  
20      RECEIVE, AND USE ANY RECORDS OR INFORMATION BELONGING TO A  
21      LICENSEE OR PERSON UNDER EXAMINATION, INCLUDING CRIMINAL, CIVIL,  
22      AND ADMINISTRATIVE HISTORY INFORMATION; PERSONAL HISTORY AND  
23      EXPERIENCE INFORMATION, INCLUDING INDEPENDENT CREDIT REPORTS  
24      OBTAINED FROM A CONSUMER REPORTING AGENCY DESCRIBED IN SECTION  
25      603 (p) OF THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC.  
26      1681a, AS AMENDED; AND ANY OTHER RECORDS OR INFORMATION THE  
27      ADMINISTRATOR CONSIDERS RELEVANT TO THE INQUIRY OR

1 INVESTIGATION REGARDLESS OF THE LOCATION, POSSESSION, CONTROL, OR  
2 CUSTODY OF THE RECORDS OR INFORMATION.

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

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

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

1       20, THE LICENSEE OR OWNER OF THE RECORDS MAY HAVE ACCESS TO THE  
2       RECORDS AS NECESSARY TO CONDUCT ITS ORDINARY BUSINESS AFFAIRS.

3       (2) IN ORDER TO CARRY OUT THE PURPOSES OF THIS SECTION, THE  
4       ADMINISTRATOR MAY:

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

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

14       (c) USE, HIRE, CONTRACT FOR, OR EMPLOY PUBLICLY OR  
15       PRIVately AVAILABLE ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE  
16       TO EXAMINE OR INVESTIGATE THE LICENSEE OR PERSON SUBJECT TO THIS  
17       ARTICLE 20;

18       (d) ACCEPT AND RELY ON EXAMINATION OR INVESTIGATION  
19       REPORTS MADE BY OTHER GOVERNMENT OFFICIALS WITHIN OR OUTSIDE  
20       THIS STATE; AND

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

27       (3) A PERSON SUBJECT TO INVESTIGATION OR EXAMINATION UNDER

1       THIS SECTION SHALL NOT KNOWINGLY WITHHOLD, ABSTRACT, REMOVE,  
2       MUTILATE, OR DESTROY ANY RECORDS OR OTHER INFORMATION RELATING  
3       TO INFORMATION REGULATED UNDER THIS ARTICLE 20.

4       (4) WHENEVER IT APPEARS TO THE ADMINISTRATOR THAT A  
5       PERSON HAS VIOLATED, IS VIOLATING, OR IS ABOUT TO VIOLATE A  
6       PROVISION OF THIS ARTICLE 20 OR A RULE ADOPTED PURSUANT TO THIS  
7       ARTICLE 20 OR THAT A LICENSEE OR AN OWNER, DIRECTOR, OFFICER,  
8       MEMBER, PARTNER, SHAREHOLDER, TRUSTEE, EMPLOYEE, OR AGENT OF  
9       THE LICENSEE HAS COMMITTED FRAUD, ENGAGED IN DISHONEST  
10       ACTIVITIES, OR MADE A MISREPRESENTATION, THE ADMINISTRATOR MAY  
11       TAKE ACTION AGAINST THE PERSON OR LICENSEE IN ACCORDANCE WITH  
12       THIS ARTICLE 20.

13       (5) THE ADMINISTRATOR SHALL ADOPT RULES AS NECESSARY TO  
14       IMPLEMENT THIS ARTICLE 20.

15       **5-20-111. Compliance with federal law.** A STUDENT LOAN  
16       SERVICER SHALL COMPLY WITH ALL APPLICABLE FEDERAL LAWS AND  
17       REGULATIONS RELATING TO SERVICING, INCLUDING THE FEDERAL "TRUTH  
18       IN LENDING ACT", 15 U.S.C. SEC. 1601 TO 1667f, AS AMENDED, AND THE  
19       REGULATIONS ADOPTED PURSUANT TO THAT ACT. IN ADDITION TO ANY  
20       OTHER REMEDIES PROVIDED BY LAW, A VIOLATION OF THAT ACT OR  
21       REGULATIONS ADOPTED PURSUANT TO THAT ACT IS A VIOLATION OF THIS  
22       ARTICLE 20 AND A BASIS UPON WHICH THE ADMINISTRATOR MAY TAKE  
23       ENFORCEMENT ACTION PURSUANT TO THIS ARTICLE 20.

24       **5-20-112. Civil action.** (1) A VIOLATION OF THIS ARTICLE 20 IS A  
25       DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF SECTION 6-1-105.

26       (2) A STUDENT LOAN SERVICER WHO FAILS TO COMPLY WITH ANY  
27       REQUIREMENT IMPOSED UNDER THIS ARTICLE 20 WITH RESPECT TO A

1 STUDENT LOAN BORROWER IS LIABLE IN AN AMOUNT EQUAL TO THE SUM  
2 OF:

3 (a) ANY ACTUAL DAMAGES SUSTAINED BY THE STUDENT LOAN  
4 BORROWER AS A RESULT OF THE FAILURE;

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

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

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

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

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

21 **5-20-114. Administrative enforcement orders.** (1) AFTER  
22 NOTICE AND HEARING, THE ADMINISTRATOR MAY ORDER A STUDENT LOAN  
23 SERVICER OR A PERSON ACTING IN THE STUDENT LOAN SERVICER'S BEHALF  
24 TO CEASE AND DESIST FROM ENGAGING IN VIOLATIONS OF THIS ARTICLE 20  
25 OR ANY RULE LAWFULLY ADOPTED OR ORDER LAWFULLY ISSUED  
26 PURSUANT TO THIS ARTICLE 20. THE ORDER ISSUED BY THE  
27 ADMINISTRATOR MAY ALSO REQUIRE THE STUDENT LOAN SERVICER OR

1 PERSON TO MAKE REFUNDS TO PERSONS OF UNLAWFUL CHARGES UNDER  
2 THIS ARTICLE 20 AND AN ADMINISTRATIVE PENALTY OF UP TO ONE  
3 THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION, ALL OR PART OF  
4 WHICH MAY BE SPECIFICALLY DESIGNATED FOR CONSUMER AND CREDITOR  
5 EDUCATIONAL PURPOSES.

6 (2) A RESPONDENT AGGRIEVED BY AN ORDER OF THE  
7 ADMINISTRATOR MAY OBTAIN JUDICIAL REVIEW OF THE ORDER IN THE  
8 COLORADO COURT OF APPEALS. THE ADMINISTRATOR MAY OBTAIN AN  
9 ORDER OF THE COURT FOR ENFORCEMENT OF THE ADMINISTRATOR'S ORDER  
10 IN THE DISTRICT COURT UNDER SECTION 24-4-106. ALL PROCEEDINGS  
11 UNDER THIS SECTION ARE GOVERNED BY SECTIONS 24-4-105 AND  
12 24-4-106.

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

26 **5-20-116. Injunctions.** THE ADMINISTRATOR MAY BRING A CIVIL  
27 ACTION TO RESTRAIN A PERSON FROM VIOLATING THIS ARTICLE 20 OR

1       RULES PROMULGATED PURSUANT TO THIS ARTICLE 20 AND FOR OTHER  
2       APPROPRIATE RELIEF, INCLUDING SUCH ORDERS OR JUDGMENTS AS MAY BE  
3       NECESSARY TO COMPLETELY COMPENSATE OR RESTORE ANY PERSON  
4       AFFECTION BY THE VIOLATION TO THE PERSON'S ORIGINAL POSITION. THE  
5       ADMINISTRATOR MAY ALSO APPLY FOR A TEMPORARY RESTRAINING ORDER  
6       OR A PRELIMINARY INJUNCTION AGAINST A RESPONDENT PENDING FINAL  
7       DETERMINATION OF PROCEEDINGS. NO BOND OR OTHER SECURITY IS  
8       REQUIRED OF THE ADMINISTRATOR BEFORE RELIEF UNDER THIS SECTION  
9       MAY BE GRANTED.

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

21       **5-20-118. Limitations.** NOTWITHSTANDING ARTICLE 80 OF TITLE  
22       13, ALL ACTIONS BROUGHT UNDER THIS ARTICLE 20 MUST BE COMMENCED  
23       WITHIN FOUR YEARS AFTER THE DATE ON WHICH ANY VIOLATION OF THIS  
24       ARTICLE 20 OCCURRED OR THE DATE ON WHICH THE LAST IN A SERIES OF  
25       SUCH ACTS OR PRACTICES OCCURRED OR WITHIN FOUR YEARS AFTER THE  
26       PLAINTIFF DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE  
27       SHOULD HAVE DISCOVERED THE OCCURRENCE OF A VIOLATION OF THIS

1       ARTICLE 20; EXCEPT THAT THE PERIOD OF LIMITATION PROVIDED IN THIS  
2       SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE PLAINTIFF  
3       PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS CAUSED  
4       BY THE DEFENDANT ENGAGING IN CONDUCT CALCULATED TO INDUCE THE  
5       PLAINTIFF TO REFRAIN FROM OR POSTPONE THE COMMENCEMENT OF THE  
6       ACTION.

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

12       (2) THE ADMINISTRATOR MAY DISCLOSE LICENSE APPLICATION  
13       AND RENEWAL RECORDS PROVIDED TO THE ADMINISTRATOR AND OTHER  
14       CONTENTS OF LICENSE RECORDS MAINTAINED PURSUANT TO THIS ARTICLE  
15       20, BUT THE ADMINISTRATOR SHALL NOT MAKE PUBLIC THE CONFIDENTIAL  
16       INFORMATION CONTAINED IN THE RECORDS.

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

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

23       **6-1-105. Deceptive trade practices.** (1) A person engages in a  
24       deceptive trade practice when, in the course of the person's business,  
25       vocation, or occupation, the person:

26       (ll) VIOLATES ARTICLE 20 OF TITLE 5.

27       **SECTION 4.** In Colorado Revised Statutes, 13-4-102, add

1        (2)(mm) as follows:

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

4            (mm) REVIEW FINAL DECISIONS OR ORDERS OF THE  
5 ADMINISTRATOR AS PROVIDED IN ARTICLE 20 OF TITLE 5.

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

11            **SECTION 6. Act subject to petition - effective date -**  
12 **applicability.** (1) This act takes effect January 1, 2020; except that, if a  
13 referendum petition is filed pursuant to section 1 (3) of article V of the  
14 state constitution against this act or an item, section, or part of this act  
15 within the ninety-day period after final adjournment of the general  
16 assembly, then the act, item, section, or part will not take effect unless  
17 approved by the people at the general election to be held in November  
18 2020 and, in such case, will take effect on the date of the official  
19 declaration of the vote thereon by the governor.

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