

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0483.01 Duane Gall x4335

SENATE BILL 21-057

SENATE SPONSORSHIP

Winter and Gonzales, Bridges, Buckner, Danielson, Garcia, Ginal, Hansen, Lee, Moreno, Pettersen, Rodriguez, Story

HOUSE SPONSORSHIP

Gray and Gonzales-Gutierrez,

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Finance
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A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR PRIVATE EDUCATION LENDERS.**

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 expands the existing "Colorado Student Loan Servicers Act", which applies only to persons who service student loans, by adding a new part 2 covering private lenders, creditors, and collection agencies in connection with those student education loans that are not made, insured, or guaranteed under federal law and that are used for postsecondary education. The bill:

- Requires lenders to grant a release to cosigners if certain conditions are met, including 12 months of consecutive,

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.*

HOUSE
2nd Reading Unamended
June 4, 2021

SENATE
3rd Reading Unamended
May 12, 2021

SENATE
Amended 2nd Reading
May 11, 2021

on-time payments, and to ensure that cosigners have access to all documentation and records related to the loan they have cosigned;

- Expands disability discharge requirements so that a borrower or cosigner may be released from repayment obligations if permanently disabled;
- Prohibits "robo-signing" of documents used in collection lawsuits and requires specific evidence of loan origination and chain of ownership of the debt before a loan creditor or collection agency may commence legal proceedings;
- Prohibits auto-defaults, in which a loan is declared immediately due and payable upon the death or bankruptcy of a cosigner even when there has been no default in payments; and
- Provides legal recourse for borrowers who are harmed by predatory acts and practices of a lender, creditor, or collection agency. A violation of the new part 2 is defined as a deceptive trade practice under the "Colorado Consumer Protection Act".

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

2 **SECTION 1. In Colorado Revised Statutes, 5-19-206, amend**
3 **(12) as follows:**

4 **5-19-206. Application for registration - required information.**
5 **An application for registration shall be signed under penalty of false**
6 **statement and include:**

7 **(12) At the applicant's expense, the results of a state and national**
8 **fingerprint-based criminal history records check, conducted within the**
9 **immediately preceding twelve months, covering every officer of the**
10 **applicant and every employee or agent of the applicant who is authorized**
11 **to initiate transactions to the trust account required by section 5-19-222.**
12 **The administrator shall be the authorized agency to receive information**
13 **regarding the result of the national criminal history records check. IF A**
14 **PROVIDER DELEGATES TO AN INDEPENDENT CONTRACTOR OR**

1 SUBCONTRACTOR THE AUTHORITY TO INITIATE TRANSACTIONS TO THE
2 TRUST ACCOUNT REQUIRED BY SECTION 5-19-222, THE ADMINISTRATOR IS
3 ENTITLED TO RECEIVE THE RESULTS OF THE STATE AND NATIONAL
4 FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK ONLY FOR THOSE
5 INDEPENDENT CONTRACTORS OR SUBCONTRACTORS WHO ARE AUTHORIZED
6 TO INITIATE TRUST ACCOUNT TRANSACTIONS PURSUANT TO THAT
7 DELEGATED AUTHORITY.

8 **SECTION 2.** In Colorado Revised Statutes, **amend** 5-20-101 as
9 follows:

10 **5-20-101. Short title.** The short title of this article 20 is the
11 "Colorado Student Loan ~~Services~~ EQUITY Act".

12 **SECTION 3.** In Colorado Revised Statutes, **amend** 5-20-102 as
13 follows:

14 **5-20-102. Scope of article - residence of debtor.** (1) This ~~article~~
15 ~~20~~ PART 1 applies to any person engaged in servicing a student education
16 loan owed by an individual who is a resident of this state. For the
17 purposes of this article 20, the residence of an individual is the address
18 given by the individual as the individual's residence to the creditor or to
19 the student loan servicer. Until an individual notifies the creditor or the
20 student loan servicer of a new or different address, the given address is
21 presumed to be unchanged.

22 (2) PART 2 OF THIS ARTICLE 20 APPLIES TO PRIVATE EDUCATION
23 LENDERS, CREDITORS, AND COLLECTION AGENCIES IN CONNECTION WITH
24 THOSE STUDENT EDUCATION LOANS THAT ARE NOT MADE, INSURED, OR
25 GUARANTEED UNDER FEDERAL LAW AND THAT ARE USED FOR
26 POSTSECONDARY EDUCATION.

27 **SECTION 4.** In Colorado Revised Statutes, 5-20-103, **amend** (3),

1 (7), and (8)(b)(IV) as follows:

2 **5-20-103. Definitions.** As used in this article 20, unless the
3 context otherwise requires:

4 (3) "Education expenses" means any ~~of the expenses that are~~
5 ~~included as part of the cost of attendance of a student as defined in 20~~
6 ~~U.S.C. sec. 1087H, as amended~~ EXPENSE RELATED, IN WHOLE OR IN PART,
7 EXPRESSLY TO FINANCING POSTSECONDARY EDUCATION, REGARDLESS OF
8 WHETHER THE DEBT INCURRED BY A STUDENT TO PAY THOSE EXPENSES IS
9 OWED TO THE PROVIDER OF POSTSECONDARY EDUCATION WHOSE SCHOOL,
10 PROGRAM, OR FACILITY THE STUDENT ATTENDS.

11 (7) "Student loan borrower" or "borrower" means:

12 (a) An individual who has received or agreed to pay a student
13 education loan; ~~or~~ AND

14 (b) FOR PURPOSES OF THIS PART 1 ONLY, an individual who shares
15 responsibility with the individual specified in subsection (7)(a) of this
16 section for repaying the student education loan.

17 (8) "Student loan servicer":

18 (b) Does not include:

19 (IV) EXCEPT AS OTHERWISE PROVIDED IN SECTION 5-20-203, a
20 collection agency, as defined in section 5-16-103 (3), ~~that is~~ WHETHER OR
21 NOT licensed pursuant to section 5-16-120, ~~and~~ whose student loan debt
22 collection business involves collecting or attempting to collect on
23 defaulted student loans; except that a collection agency that also services
24 nondefaulted student loans as part of its business is a student loan
25 servicer. For the purpose of this subsection (8)(b)(IV), "defaulted student
26 loans" means federal student loans for which no payment has been
27 received for two hundred seventy days or more or private student

1 EDUCATION loans in default according to the terms of the loan documents.
2 This subsection (8)(b)(IV) does not exempt a collection agency from
3 complying with the requirements of the "Colorado Fair Debt Collection
4 Practices Act", article 16 of this title 5.

5 **SECTION 5.** In Colorado Revised Statutes, **add** part 2 to article
6 20 of title 5 as follows:

7 PART 2

8 PRIVATE STUDENT EDUCATION LENDERS

9 **5-20-201. Scope of part - construction with other laws -**
10 **legislative declaration.** THE GENERAL ASSEMBLY FINDS, DETERMINES,
11 AND DECLARES THAT THIS PART 2 IS ENACTED TO ADDRESS ISSUES NOT
12 FULLY ADDRESSED THROUGH THE REGULATION OF STUDENT LOAN
13 SERVICERS UNDER PART 1 OF THIS ARTICLE 20. THIS PART 2 IS INTENDED
14 TO COMPLEMENT, AND SHOULD BE CONSTRUED IN HARMONY WITH, PART
15 1 OF THIS ARTICLE 20 TO PROVIDE SEAMLESS AND CONSISTENT
16 PROTECTION TO BORROWERS WHENEVER POSSIBLE.

17 **5-20-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
18 CONTEXT OTHERWISE REQUIRES:

19 (1) "COLLECTION AGENCY" MEANS A COLLECTION AGENCY, AS
20 DEFINED IN SECTION 5-16-103 (3), THAT COLLECTS OR ATTEMPTS TO
21 COLLECT, DIRECTLY OR INDIRECTLY, A CONSUMER DEBT RESULTING FROM
22 A PRIVATE EDUCATION LOAN. THE TERM INCLUDES A DEBT BUYER, AS
23 DEFINED IN SECTION 5-16-103 (8.5).

24 (2) (a) "COSIGNER" MEANS ANY INDIVIDUAL WHO IS LIABLE FOR
25 THE OBLIGATION OF ANOTHER WITHOUT COMPENSATION, REGARDLESS OF
26 HOW THE INDIVIDUAL IS DESIGNATED IN THE CONTRACT OR INSTRUMENT
27 WITH RESPECT TO THAT OBLIGATION, INCLUDING AN OBLIGATION UNDER

1 A PRIVATE EDUCATION LOAN EXTENDED TO CONSOLIDATE A BORROWER'S
2 PREEXISTING STUDENT LOANS. THE TERM INCLUDES ANY INDIVIDUAL
3 WHOSE SIGNATURE IS REQUESTED AS A CONDITION TO GRANT CREDIT OR
4 TO FORBEAR ON COLLECTION.

5 (b) "COSIGNER" DOES NOT INCLUDE A SPOUSE OF AN INDIVIDUAL
6 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION IF THE SPOUSE'S
7 SIGNATURE IS NEEDED SOLELY TO PERFECT THE SECURITY INTEREST IN A
8 LOAN.

9 (3) "CREDITOR" MEANS THE SELLER, LESSOR, LENDER, OR PERSON
10 WHO MAKES OR ARRANGES A PRIVATE EDUCATION LOAN AND TO WHOM
11 THE LOAN IS INITIALLY PAYABLE, OR THE ASSIGNEE OF A CREDITOR'S RIGHT
12 TO PAYMENT, BUT USE OF THE TERM DOES NOT IN ITSELF IMPOSE ON AN
13 ASSIGNEE ANY OBLIGATION OF THE ASSIGNOR. "CREDITOR" DOES NOT
14 INCLUDE A COLLECTION AGENCY AS DEFINED IN SECTION 5-16-103 (3).

15 (4) "POSTSECONDARY EDUCATIONAL INSTITUTION" MEANS AN
16 INSTITUTION THAT PROVIDES POSTSECONDARY INSTRUCTION, AS DEFINED
17 IN SECTION 23-60-103 (3).

18 (5) "POSTSECONDARY EDUCATION EXPENSE" MEANS ANY EXPENSE
19 ASSOCIATED WITH A STUDENT'S ENROLLMENT IN, OR ATTENDANCE AT, A
20 POSTSECONDARY EDUCATIONAL INSTITUTION.

21 (6) (a) "PRIVATE EDUCATION LENDER" OR "LENDER" MEANS:

22 (I) ANY PERSON ENGAGED IN THE BUSINESS OF MAKING OR
23 EXTENDING PRIVATE EDUCATION LOANS;

24 (II) A HOLDER OF A PRIVATE EDUCATION LOAN; OR

25 (III) A CREDITOR.

26 (b) "PRIVATE EDUCATION LENDER" OR "LENDER" DOES NOT
27 INCLUDE:

- 1 (I) A BANK, AS DEFINED IN 12 U.S.C. SEC. 1841 (c);
- 2 (II) A CREDIT UNION; OR
- 3 (III) AN INDUSTRIAL BANK ORGANIZED UNDER TITLE 7, CHAPTER
- 4 8, FINANCIAL INSTITUTIONS ACT, UTAH CODE ANNOTATED, AS AMENDED.

5 (7) (a) "PRIVATE EDUCATION LOAN" MEANS A STUDENT
6 EDUCATION LOAN THAT:

7 (I) IS NOT MADE, INSURED, OR GUARANTEED UNDER TITLE IV OF
8 THE "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC. 1070 ET SEQ., AS
9 AMENDED; AND

10 (II) IS EXTENDED TO A CONSUMER EXPRESSLY, IN WHOLE OR IN
11 PART, FOR POSTSECONDARY EDUCATIONAL EXPENSES, REGARDLESS OF
12 WHETHER THE LOAN IS PROVIDED BY THE POSTSECONDARY EDUCATIONAL
13 INSTITUTION THAT THE STUDENT ATTENDS.

14 (b) "PRIVATE EDUCATION LOAN" DOES NOT INCLUDE:

15 (I) A LOAN THAT IS SECURED BY REAL PROPERTY, REGARDLESS OF
16 THE PURPOSE OF THE LOAN; OR

17 (II) AN EXTENSION OF CREDIT IN WHICH THE COVERED
18 POSTSECONDARY EDUCATIONAL INSTITUTION IS THE LENDER IF:

19 (A) THE TERM OF THE EXTENSION OF CREDIT IS NINETY DAYS OR
20 LESS; OR

21 (B) AN INTEREST RATE IS NOT APPLIED TO THE CREDIT BALANCE
22 AND THE TERM OF THE EXTENSION OF CREDIT IS ONE YEAR OR LESS, EVEN
23 IF THE CREDIT IS PAYABLE IN MORE THAN FOUR INSTALLMENTS.

24 (8) "PRIVATE EDUCATION LOAN BORROWER" MEANS ANY RESIDENT
25 OF COLORADO, INCLUDING A STUDENT LOAN BORROWER, WHO HAS
26 RECEIVED OR AGREED TO PAY A PRIVATE EDUCATION LOAN FOR THE
27 RESIDENT'S OWN POSTSECONDARY EDUCATION EXPENSES.

1 (9) (a) "TOTAL AND PERMANENT DISABILITY" MEANS, EXCEPT AS
2 OTHERWISE PROVIDED IN SUBSECTION (9)(b) OF THIS SECTION, THE
3 CONDITION OF AN INDIVIDUAL WHO:

4 (I) HAS BEEN DETERMINED BY THE UNITED STATES SECRETARY OF
5 VETERANS AFFAIRS TO BE UNEMPLOYABLE DUE TO A SERVICE-CONNECTED
6 DISABILITY; OR

7 (II) IS UNABLE TO ENGAGE IN ANY SUBSTANTIAL GAINFUL
8 ACTIVITY BY REASON OF ANY MEDICALLY DETERMINABLE PHYSICAL OR
9 MENTAL IMPAIRMENT THAT CAN BE EXPECTED TO RESULT IN DEATH, HAS
10 LASTED FOR A CONTINUOUS PERIOD OF NOT LESS THAN TWELVE MONTHS,
11 OR CAN BE EXPECTED TO LAST FOR A CONTINUOUS PERIOD OF NOT LESS
12 THAN TWELVE MONTHS.

13 (b) "TOTAL AND PERMANENT DISABILITY" DOES NOT INCLUDE A
14 CONDITION THAT HAS NOT PROGRESSED OR BEEN EXACERBATED, OR THAT
15 THE INDIVIDUAL DID NOT ACQUIRE, UNTIL AFTER THE CLOSING OF THE
16 LOAN AGREEMENT.

17 **5-20-203. Registration of private education lenders - penalties**
18 **- rules.** (1) ON OR AFTER SEPTEMBER 1, 2021, A PERSON SHALL NOT
19 OFFER OR MAKE A PRIVATE EDUCATION LOAN TO A RESIDENT OF
20 COLORADO WITHOUT FIRST REGISTERING WITH THE ADMINISTRATOR AS
21 PROVIDED IN THIS SECTION.

22 (2) A PRIVATE EDUCATION LENDER SHALL:

23 (a) REGISTER WITH THE ADMINISTRATOR PURSUANT TO ANY
24 REGISTRATION PROCEDURES SET FORTH BY THE ADMINISTRATOR AND
25 PAY THE FEE SET BY THE ADMINISTRATOR BY RULE; AND

26 (b) PROVIDE THE ADMINISTRATOR, AT THE TIME OF REGISTRATION
27 AND NOT LESS THAN ONCE PER YEAR THEREAFTER, AS ESTABLISHED BY

1 THE ADMINISTRATOR BY RULE, AND AT OTHER TIMES UPON THE
2 ADMINISTRATOR'S REQUEST, WITH THE FOLLOWING DOCUMENTS AND
3 INFORMATION:

4 (I) A LIST OF ALL SCHOOLS AT WHICH THE PRIVATE EDUCATION
5 LENDER HAS PROVIDED PRIVATE EDUCATION LOANS TO A PRIVATE
6 EDUCATION LOAN BORROWER;

7 (II) THE VOLUME OF PRIVATE EDUCATION LOANS MADE ANNUALLY
8 TO PRIVATE EDUCATION LOAN BORROWERS;

9 (III) THE VOLUME OF PRIVATE EDUCATION LOANS MADE
10 ANNUALLY AT EACH SCHOOL IDENTIFIED UNDER SUBSECTION (2)(b)(I) OF
11 THIS SECTION;

12 (IV) THE DEFAULT RATE FOR PRIVATE EDUCATION LOAN
13 BORROWERS OBTAINING PRIVATE EDUCATION LOANS FROM THE PRIVATE
14 EDUCATION LENDER, INCLUDING THE DEFAULT RATE FOR PRIVATE
15 EDUCATION LOANS MADE TO PRIVATE EDUCATION LOAN BORROWERS AT
16 EACH SCHOOL LISTED PURSUANT TO SUBSECTION (2)(b)(I) OF THIS
17 SECTION;

18 (V) A COPY OF EACH MODEL PROMISSORY NOTE, AGREEMENT,
19 CONTRACT, OR OTHER INSTRUMENT USED BY THE PRIVATE EDUCATION
20 LENDER DURING THE PREVIOUS YEAR TO SUBSTANTIATE THAT A PRIVATE
21 EDUCATION LOAN HAS BEEN EXTENDED TO A PRIVATE EDUCATION LOAN
22 BORROWER OR THAT A PRIVATE EDUCATION LOAN BORROWER OWES A
23 DEBT TO THE LENDER; AND

24 (VI) THE NAME AND ADDRESS OF THE PRIVATE EDUCATION LENDER
25 AND ANY OFFICER, DIRECTOR, PARTNER, OR OWNER OF A CONTROLLING
26 INTEREST OF THE LENDER.

27 (3) THE ADMINISTRATOR SHALL CREATE A PUBLICLY ACCESSIBLE

1 WEBSITE THAT INCLUDES THE FOLLOWING INFORMATION ABOUT PRIVATE
2 EDUCATION LENDERS REGISTERED IN COLORADO:

3 (a) THE NAME, ADDRESS, TELEPHONE NUMBER, AND WEBSITE FOR
4 ALL REGISTERED PRIVATE EDUCATION LENDERS;

5 (b) A SUMMARY OF THE INFORMATION REQUIRED UNDER
6 SUBSECTIONS (2)(b)(I) TO (2)(b)(VI) OF THIS SECTION; AND

7 (c) COPIES OF ALL MODEL PROMISSORY NOTES, AGREEMENTS,
8 CONTRACTS, AND OTHER INSTRUMENTS PROVIDED TO THE ADMINISTRATOR
9 UNDER SUBSECTION (2)(b)(V) OF THIS SECTION.

10 (4) THE ADMINISTRATOR MAY IMPOSE CIVIL PENALTIES ON
11 PRIVATE EDUCATION LENDERS AND COLLECTION AGENCIES IN THE SAME
12 AMOUNTS, IN SUBSTANTIALLY THE SAME MANNER, AND ON
13 SUBSTANTIALLY THE SAME GROUNDS AS PROVIDED IN SECTIONS 5-20-114
14 TO 5-20-117 FOR THE IMPOSITION OF CIVIL PENALTIES ON STUDENT LOAN
15 SERVICERS.

16 (5) THE ADMINISTRATOR MAY ORDER THAT ANY PERSON WHO HAS
17 BEEN FOUND TO HAVE VIOLATED ANY PROVISION OF THIS PART 2, OR OF
18 THE RULES ISSUED PURSUANT TO THIS PART 2, AND HAS THEREBY CAUSED
19 FINANCIAL HARM TO A CONSUMER BE BARRED FOR A TERM NOT EXCEEDING
20 TEN YEARS FROM ACTING AS A PRIVATE EDUCATION LENDER OR A
21 STOCKHOLDER, OFFICER, DIRECTOR, PARTNER OR OTHER OWNER, OR
22 EMPLOYEE OF A PRIVATE EDUCATION LENDER.

23 (6) THE ADMINISTRATOR MAY PRESCRIBE AN ALTERNATIVE
24 REGISTRATION PROCESS AND FEE STRUCTURE FOR PUBLIC AND PRIVATE
25 NONPROFIT POSTSECONDARY EDUCATIONAL INSTITUTIONS.

26 (7) AN ENTITY THAT IS REQUIRED TO FILE A NOTIFICATION WITH
27 THE ADMINISTRATOR PURSUANT TO SECTION 5-6-202 OR REQUIRED TO

1 HOLD A LICENSE PURSUANT TO SECTION 5-2-301, 5-16-118, OR 5-20-106
2 IS EXEMPT FROM REGISTRATION UNDER THIS SECTION BUT IS SUBJECT TO
3 ALL OTHER REQUIREMENTS OF THIS PART 2.

4 **5-20-204. Cosigner disclosures.** (1) BEFORE EXTENDING A
5 PRIVATE EDUCATION LOAN THAT REQUIRES A COSIGNER, A PRIVATE
6 EDUCATION LENDER SHALL DISCLOSE TO THE COSIGNER:

7 (a) HOW THE PRIVATE EDUCATION LOAN OBLIGATION WILL APPEAR
8 ON THE COSIGNER'S CREDIT;

9 (b) HOW THE COSIGNER WILL BE NOTIFIED IF THE PRIVATE
10 EDUCATION LOAN BECOMES DELINQUENT, INCLUDING HOW THE COSIGNER
11 CAN CURE THE DELINQUENCY IN ORDER TO AVOID NEGATIVE CREDIT
12 FURNISHING AND LOSS OF COSIGNER RELEASE ELIGIBILITY; AND

13 (c) ELIGIBILITY FOR RELEASE OF THE COSIGNER'S OBLIGATION ON
14 THE PRIVATE EDUCATION LOAN, INCLUDING THE NUMBER OF ON-TIME
15 PAYMENTS AND ANY OTHER CRITERIA REQUIRED TO APPROVE THE RELEASE
16 OF THE COSIGNER FROM THE LOAN OBLIGATION.

17 (2) FOR ANY PRIVATE EDUCATION LOAN THAT OBLIGATES A
18 COSIGNER, A LENDER SHALL PROVIDE THE PRIVATE EDUCATION LOAN
19 BORROWER AND THE COSIGNER AN ANNUAL WRITTEN NOTICE CONTAINING
20 INFORMATION ABOUT COSIGNER RELEASE, INCLUDING THE
21 ADMINISTRATIVE, OBJECTIVE CRITERIA THE LENDER REQUIRES TO APPROVE
22 THE RELEASE OF THE COSIGNER FROM THE LOAN OBLIGATION AND THE
23 PROCESS FOR APPLYING FOR COSIGNER RELEASE. IF THE PRIVATE
24 EDUCATION LOAN BORROWER HAS MET THE APPLICABLE PAYMENT
25 REQUIREMENT TO BE ELIGIBLE FOR COSIGNER RELEASE, THE LENDER SHALL
26 SEND THE PRIVATE EDUCATION LOAN BORROWER AND THE COSIGNER A
27 WRITTEN NOTIFICATION BY MAIL, AND BY ELECTRONIC MAIL IF A PRIVATE

1 EDUCATION LOAN BORROWER OR COSIGNER HAS ELECTED TO RECEIVE
2 ELECTRONIC COMMUNICATIONS FROM THE LENDER, INFORMING THE
3 PRIVATE EDUCATION LOAN BORROWER AND COSIGNER THAT THE
4 PAYMENTS REQUIREMENT TO BE ELIGIBLE FOR COSIGNER RELEASE HAS
5 BEEN MET. THE NOTIFICATION MUST ALSO INCLUDE INFORMATION ABOUT
6 ANY ADDITIONAL CRITERIA TO QUALIFY FOR COSIGNER RELEASE AND THE
7 PROCEDURE TO APPLY FOR COSIGNER RELEASE.

8 (3) A LENDER SHALL PROVIDE WRITTEN NOTICE TO A PRIVATE
9 EDUCATION LOAN BORROWER WHO APPLIES FOR COSIGNER RELEASE BUT
10 WHOSE APPLICATION IS INCOMPLETE. THE WRITTEN NOTICE MUST INCLUDE
11 A DESCRIPTION OF THE INFORMATION NEEDED TO CONSIDER THE
12 APPLICATION COMPLETE AND THE DATE BY WHICH THE APPLICANT MUST
13 FURNISH THE MISSING INFORMATION IN ORDER TO COMPLETE THE
14 APPLICATION.

15 (4) WITHIN THIRTY DAYS AFTER A PRIVATE EDUCATION LOAN
16 BORROWER SUBMITS A COMPLETED APPLICATION FOR COSIGNER RELEASE,
17 THE LENDER SHALL SEND THE PRIVATE EDUCATION LOAN BORROWER AND
18 COSIGNER A WRITTEN NOTICE THAT INFORMS THE PRIVATE EDUCATION
19 LOAN BORROWER AND COSIGNER WHETHER THE LENDER HAS APPROVED OR
20 DENIED THE COSIGNER RELEASE APPLICATION. IF THE LENDER DENIES A
21 REQUEST FOR COSIGNER RELEASE, THE PRIVATE EDUCATION LOAN
22 BORROWER MAY REQUEST COPIES OF ANY DOCUMENTS OR INFORMATION
23 USED IN THE DETERMINATION, INCLUDING THE CREDIT SCORE THRESHOLD
24 USED BY THE LENDER, THE PRIVATE EDUCATION LOAN BORROWER'S
25 CONSUMER REPORT, THE PRIVATE EDUCATION LOAN BORROWER'S CREDIT
26 SCORE, AND ANY OTHER DOCUMENTS OR INFORMATION SPECIFIC TO THE
27 PRIVATE EDUCATION LOAN BORROWER. THE LENDER SHALL ALSO PROVIDE

1 ANY ADVERSE ACTION NOTICES REQUIRED UNDER APPLICABLE FEDERAL
2 LAW IF THE DENIAL IS BASED IN WHOLE OR IN PART ON ANY INFORMATION
3 CONTAINED IN A CONSUMER REPORT.

4 (5) IN RESPONSE TO A WRITTEN OR ORAL REQUEST BY THE PRIVATE
5 EDUCATION LOAN BORROWER FOR COSIGNER RELEASE, A LENDER SHALL
6 PROVIDE TO THE PRIVATE EDUCATION LOAN BORROWER THE INFORMATION
7 DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

8 **5-20-205. Cosigner release.** (1) A LENDER SHALL NOT IMPOSE
9 ANY RESTRICTION THAT PERMANENTLY BARS A PRIVATE EDUCATION LOAN
10 BORROWER FROM QUALIFYING FOR COSIGNER RELEASE, INCLUDING
11 RESTRICTING THE NUMBER OF TIMES A PRIVATE EDUCATION LOAN
12 BORROWER MAY APPLY FOR COSIGNER RELEASE.

13 (2) A LENDER SHALL NOT IMPOSE ANY NEGATIVE CONSEQUENCES
14 ON A PRIVATE EDUCATION LOAN BORROWER OR COSIGNER DURING THE
15 SIXTY DAYS FOLLOWING THE ISSUANCE OF THE NOTICE REQUIRED
16 PURSUANT TO SECTION 5-20-204(3) OR UNTIL THE LENDER MAKES A FINAL
17 DETERMINATION ABOUT A PRIVATE EDUCATION LOAN BORROWER'S
18 COSIGNER RELEASE APPLICATION, WHICHEVER OCCURS LATER. AS USED IN
19 THIS SUBSECTION (2), "NEGATIVE CONSEQUENCES" INCLUDES THE
20 IMPOSITION OF ADDITIONAL ELIGIBILITY CRITERIA, NEGATIVE CREDIT
21 REPORTING, LOST ELIGIBILITY FOR COSIGNER RELEASE, LATE FEES,
22 INTEREST CAPITALIZATION, OR OTHER FINANCIAL INJURY.

23 (3) FOR ANY PRIVATE EDUCATION LOAN ISSUED ON OR AFTER THE
24 EFFECTIVE DATE OF THIS PART 2, A LENDER SHALL NOT REQUIRE PROOF OF
25 MORE THAN TWELVE CONSECUTIVE, ON-TIME PAYMENTS AS PART OF THE
26 CRITERIA FOR COSIGNER RELEASE. A PRIVATE EDUCATION LOAN
27 BORROWER WHO HAS PAID THE EQUIVALENT OF TWELVE MONTHS OF

1 PRINCIPAL AND INTEREST PAYMENTS WITHIN ANY TWELVE-MONTH PERIOD
2 IS DEEMED TO HAVE SATISFIED THE CONSECUTIVE, ON-TIME PAYMENT
3 REQUIREMENT EVEN IF THE PRIVATE EDUCATION LOAN BORROWER HAS
4 NOT MADE PAYMENTS MONTHLY DURING THE TWELVE-MONTH PERIOD. IF
5 A PRIVATE EDUCATION LOAN BORROWER OR COSIGNER REQUESTS A
6 CHANGE IN TERMS THAT RESTARTS THE COUNT OF CONSECUTIVE, ON-TIME
7 PAYMENTS REQUIRED FOR COSIGNER RELEASE, THE LENDER SHALL NOTIFY
8 THE PRIVATE EDUCATION LOAN BORROWER AND COSIGNER IN WRITING OF
9 THE IMPACT OF THE CHANGE AND PROVIDE THE PRIVATE EDUCATION LOAN
10 BORROWER OR COSIGNER THE RIGHT TO WITHDRAW OR REVERSE THE
11 REQUEST TO AVOID THAT IMPACT.

12 (4) A PRIVATE EDUCATION LOAN BORROWER MAY REQUEST AN
13 APPEAL OF A LENDER'S DETERMINATION TO DENY A REQUEST FOR
14 COSIGNER RELEASE, AND THE LENDER SHALL PERMIT THE PRIVATE
15 EDUCATION LOAN BORROWER TO SUBMIT ADDITIONAL DOCUMENTATION
16 EVIDENCING THE PRIVATE EDUCATION LOAN BORROWER'S ABILITY,
17 WILLINGNESS, AND STABILITY TO MEET THE PAYMENT OBLIGATIONS. THE
18 PRIVATE EDUCATION LOAN BORROWER MAY REQUEST THAT ANOTHER
19 EMPLOYEE OF THE LENDER REVIEW THE COSIGNER RELEASE
20 DETERMINATION.

21 (5) A LENDER SHALL ESTABLISH AND MAINTAIN A COMPREHENSIVE
22 RECORD MANAGEMENT SYSTEM REASONABLY DESIGNED TO ENSURE THE
23 ACCURACY, INTEGRITY, AND COMPLETENESS OF INFORMATION ABOUT
24 COSIGNER RELEASE APPLICATIONS AND TO ENSURE COMPLIANCE WITH
25 APPLICABLE STATE AND FEDERAL LAWS, INCLUDING THE "EQUAL CREDIT
26 OPPORTUNITY ACT," 15 U.S.C. SEC. 1691 ET SEQ., AS AMENDED, AND THE
27 "FAIR CREDIT REPORTING ACT," 15 U.S.C. SEC. 1681 ET SEQ., AS

1 AMENDED. THIS SYSTEM MUST INCLUDE THE NUMBER OF COSIGNER
2 RELEASE APPLICATIONS RECEIVED, THE APPROVAL AND DENIAL RATE, AND
3 THE PRIMARY REASONS FOR ANY DENIAL.

4 **5-20-206. Cosigner rights.** (1) A LENDER SHALL PROVIDE A
5 COSIGNER WITH ACCESS TO ALL DOCUMENTS OR RECORDS RELATED TO THE
6 COSIGNED PRIVATE EDUCATION LOAN THAT ARE AVAILABLE TO THE
7 PRIVATE EDUCATION LOAN BORROWER.

8 (2) (a) IF A LENDER PROVIDES ELECTRONIC ACCESS TO DOCUMENTS
9 AND RECORDS FOR A PRIVATE EDUCATION LOAN BORROWER, IT SHALL
10 PROVIDE EQUIVALENT ELECTRONIC ACCESS TO THE COSIGNER.

11 (b) UPON THE PRIVATE EDUCATION LOAN BORROWER'S REQUEST,
12 THE LENDER SHALL REDACT THE PRIVATE EDUCATION LOAN BORROWER'S
13 CONTACT INFORMATION FROM DOCUMENTS AND RECORDS PROVIDED TO A
14 COSIGNER.

15 (3) A LENDER SHALL NOT INCLUDE IN A PRIVATE EDUCATION LOAN
16 EXECUTED AFTER THE EFFECTIVE DATE OF THIS PART 2 A PROVISION THAT
17 PERMITS THE LENDER TO ACCELERATE PAYMENTS, IN WHOLE OR IN PART,
18 EXCEPT UPON A PAYMENT DEFAULT. A LENDER SHALL NOT PLACE ANY
19 LOAN OR ACCOUNT INTO DEFAULT OR ACCELERATE A LOAN FOR ANY
20 REASON OTHER THAN PAYMENT DEFAULT.

21 (4) A PRIVATE EDUCATION LOAN EXECUTED BEFORE THE
22 EFFECTIVE DATE OF THIS PART 2 MAY PERMIT THE LENDER TO ACCELERATE
23 PAYMENTS ONLY IF THE PROMISSORY NOTE OR LOAN AGREEMENT
24 EXPLICITLY AUTHORIZES AN ACCELERATION AND ONLY FOR THE REASONS
25 STATED IN THE NOTE OR AGREEMENT.

26 **5-20-207. Bankruptcy or death of cosigner.** (1) IF A COSIGNER
27 DIES, THE LENDER SHALL NOT ATTEMPT TO COLLECT AGAINST THE

1 COSIGNER'S ESTATE OTHER THAN FOR PAYMENT DEFAULT.

2 (2) WITH REGARD TO THE DEATH OR BANKRUPTCY OF A COSIGNER,
3 IF A PRIVATE EDUCATION LOAN IS NOT MORE THAN SIXTY DAYS
4 DELINQUENT AT THE TIME THE LENDER IS NOTIFIED OF THE COSIGNER'S
5 DEATH OR BANKRUPTCY, THE LENDER SHALL NOT CHANGE ANY TERMS OR
6 BENEFITS UNDER THE PROMISSORY NOTE, REPAYMENT SCHEDULE,
7 REPAYMENT TERMS, OR MONTHLY PAYMENT AMOUNT OR ANY OTHER
8 PROVISION ASSOCIATED WITH THE LOAN.

9 **5-20-208. Total and permanent disability of the private**
10 **education loan borrower or cosigner.** (1) FOR ANY PRIVATE
11 EDUCATION LOAN ISSUED ON OR AFTER THE EFFECTIVE DATE OF THIS PART
12 2, A PRIVATE EDUCATION LENDER, WHEN NOTIFIED OF THE TOTAL AND
13 PERMANENT DISABILITY OF A PRIVATE EDUCATION LOAN BORROWER OR
14 COSIGNER, SHALL RELEASE ANY COSIGNER FROM THE OBLIGATIONS OF THE
15 COSIGNER UNDER A PRIVATE EDUCATION LOAN. THE LENDER SHALL NOT
16 ATTEMPT TO COLLECT A PAYMENT FROM A COSIGNER FOLLOWING A
17 NOTIFICATION OF TOTAL AND PERMANENT DISABILITY OF THE PRIVATE
18 EDUCATION LOAN BORROWER OR COSIGNER.

19 (2) A LENDER SHALL, WHEN NOTIFIED OF THE TOTAL AND
20 PERMANENT DISABILITY OF A PRIVATE EDUCATION LOAN BORROWER,
21 DISCHARGE THE LIABILITY OF THE PRIVATE EDUCATION LOAN BORROWER
22 AND COSIGNER ON THE LOAN.

23 (3) AFTER RECEIVING A NOTIFICATION DESCRIBED IN SUBSECTION
24 (2) OF THIS SECTION, THE LENDER SHALL NOT:

25 (a) ATTEMPT TO COLLECT ON THE OUTSTANDING LIABILITY OF THE
26 PRIVATE EDUCATION LOAN BORROWER OR COSIGNER; OR

27 (b) MONITOR THE DISABILITY STATUS OF THE PRIVATE EDUCATION

1 LOAN BORROWER AT ANY POINT AFTER THE DATE OF DISCHARGE.

2 (4) A LENDER SHALL, WITHIN THIRTY DAYS AFTER THE RELEASE OF
3 EITHER A COSIGNER OR PRIVATE EDUCATION LOAN BORROWER FROM THE
4 OBLIGATIONS OF A PRIVATE EDUCATION LOAN PURSUANT TO SUBSECTION
5 (1) OR (2) OF THIS SECTION, NOTIFY BOTH THE PRIVATE EDUCATION LOAN
6 BORROWER AND COSIGNER OF THE RELEASE.

7 (5) A LENDER SHALL, WITHIN THIRTY DAYS AFTER RECEIVING
8 NOTICE OF THE TOTAL AND PERMANENT DISABILITY OF A PRIVATE
9 EDUCATION LOAN BORROWER PURSUANT TO SUBSECTION (1) OF THIS
10 SECTION, PROVIDE THE PRIVATE EDUCATION LOAN BORROWER AN OPTION
11 TO DESIGNATE AN INDIVIDUAL TO HAVE THE LEGAL AUTHORITY TO ACT ON
12 BEHALF OF THE PRIVATE EDUCATION LOAN BORROWER.

13 (6) IF A COSIGNER IS RELEASED FROM THE OBLIGATIONS OF A
14 PRIVATE EDUCATION LOAN PURSUANT TO SUBSECTION (1) OF THIS
15 SECTION, THE LENDER SHALL NOT REQUIRE THE PRIVATE EDUCATION LOAN
16 BORROWER TO OBTAIN ANOTHER COSIGNER ON THE LOAN OBLIGATION.

17 (7) A LENDER SHALL NOT DECLARE A DEFAULT OR ACCELERATE
18 THE DEBT AGAINST THE PRIVATE EDUCATION LOAN BORROWER ON THE
19 SOLE BASIS OF THE RELEASE OF THE COSIGNER FROM THE LOAN
20 OBLIGATION DUE TO TOTAL AND PERMANENT DISABILITY PURSUANT TO
21 SUBSECTION (1) OF THIS SECTION.

22 **5-20-209. Refinancing - additional disclosures - limitations on**
23 **default pending approval.** (1) BEFORE OFFERING A PERSON A PRIVATE
24 EDUCATION LOAN THAT IS BEING USED TO REFINANCE AN EXISTING
25 EDUCATION LOAN, A PRIVATE EDUCATION LENDER SHALL PROVIDE THE
26 PERSON A DISCLOSURE EXPLAINING THAT BENEFITS AND PROTECTIONS
27 APPLICABLE TO THE EXISTING LOAN MAY BE LOST DUE TO THE

1 REFINANCING. THE DISCLOSURE MUST BE PROVIDED ON A ONE-PAGE
2 INFORMATION SHEET IN AT LEAST TWELVE-POINT TYPE AND MUST BE
3 WRITTEN IN SIMPLE, CLEAR, UNDERSTANDABLE, AND EASILY READABLE
4 LANGUAGE.

5 (2) IF A PRIVATE EDUCATION LENDER OFFERS ANY PRIVATE
6 EDUCATION LOAN BORROWER MODIFIED OR FLEXIBLE REPAYMENT OPTIONS
7 IN CONNECTION WITH A PRIVATE EDUCATION LOAN, THE LENDER SHALL
8 OFFER THOSE MODIFIED OR FLEXIBLE REPAYMENT OPTIONS TO ALL OF ITS
9 PRIVATE EDUCATION LOAN BORROWERS. IN ADDITION, THE LENDER SHALL:

10 (a) PROVIDE ON ITS WEBSITE A DESCRIPTION OF ANY MODIFIED OR
11 FLEXIBLE REPAYMENT OPTIONS OFFERED BY THE LENDER FOR PRIVATE
12 EDUCATION LOANS;

13 (b) ESTABLISH POLICIES AND PROCEDURES AND IMPLEMENT
14 MODIFIED OR FLEXIBLE REPAYMENT OPTIONS CONSISTENTLY IN ORDER TO
15 FACILITATE THE EVALUATION OF PRIVATE EDUCATION LOAN MODIFIED OR
16 FLEXIBLE REPAYMENT OPTION REQUESTS, INCLUDING PROVIDING
17 ACCURATE INFORMATION REGARDING ANY SUCH OPTIONS THAT MAY BE
18 AVAILABLE TO THE PRIVATE EDUCATION LOAN BORROWER THROUGH THE
19 PROMISSORY NOTE OR THAT MAY HAVE BEEN MARKETED TO THE PRIVATE
20 EDUCATION LOAN BORROWER THROUGH MARKETING MATERIALS; AND

21 (c) CONSISTENTLY PRESENT AND OFFER PRIVATE EDUCATION LOAN
22 MODIFIED OR FLEXIBLE REPAYMENT OPTIONS TO PRIVATE EDUCATION
23 LOAN BORROWERS WITH SIMILAR FINANCIAL CIRCUMSTANCES, IF THE
24 LENDER OFFERS SUCH REPAYMENT OPTIONS.

25 (3) A PRIVATE EDUCATION LENDER SHALL NOT PLACE A LOAN OR
26 ACCOUNT INTO DEFAULT OR ACCELERATE A LOAN WHILE A PRIVATE
27 EDUCATION LOAN BORROWER IS SEEKING A LOAN MODIFICATION OR

1 ENROLLMENT IN A MODIFIED OR FLEXIBLE REPAYMENT PLAN; EXCEPT THAT
2 A LENDER MAY PLACE A LOAN OR ACCOUNT INTO DEFAULT OR
3 ACCELERATE A LOAN FOR PAYMENT DEFAULT NINETY DAYS AFTER THE
4 PRIVATE EDUCATION LOAN BORROWER'S DEFAULT.

5 **5-20-210. Prohibited conduct.** (1) A PRIVATE EDUCATION
6 LENDER SHALL NOT:

7 (a) OFFER ANY PRIVATE EDUCATION LOAN THAT IS NOT IN
8 CONFORMITY WITH THIS PART 2 OR RULES OR ORDERS OF THE
9 ADMINISTRATOR UNDER THIS PART 2 OR THAT VIOLATES ANY OTHER STATE
10 OR FEDERAL LAW;

11 (b) ENGAGE IN ANY UNFAIR, DECEPTIVE, OR ABUSIVE ACT OR
12 PRACTICE;

13 (c) (I) TAKE AN ASSIGNMENT OF EARNINGS OF THE BORROWER OR
14 COSIGNER FOR PAYMENT OR AS A SECURITY FOR PAYMENT OF A DEBT
15 ARISING OUT OF A PRIVATE EDUCATION LOAN. AN ASSIGNMENT OF
16 EARNINGS IN VIOLATION OF THIS SECTION IS UNENFORCEABLE BY THE
17 ASSIGNEE OF THE EARNINGS AND REVOCABLE BY THE BORROWER OR
18 COSIGNER.

19 (II) A SALE OF UNPAID EARNINGS MADE IN CONSIDERATION OF THE
20 PAYMENT OF MONEY TO OR FOR THE ACCOUNT OF THE SELLER OF THE
21 EARNINGS IS DEEMED TO BE A LOAN TO THE SELLER, SECURED BY AN
22 ASSIGNMENT OF EARNINGS.

23 (d) MAKE, ADVERTISE, PRINT, DISPLAY, PUBLISH, DISTRIBUTE,
24 ELECTRONICALLY TRANSMIT, TELECAST, OR BROADCAST, IN ANY MANNER,
25 ANY STATEMENT OR REPRESENTATION THAT IS FALSE, MISLEADING, OR
26 DECEPTIVE.

27 **5-20-211. Record retention - confidentiality.** (1) A PRIVATE

1 EDUCATION LENDER SHALL ESTABLISH AND MAINTAIN RECORDS AND
2 PERMIT THE ADMINISTRATOR TO ACCESS AND COPY ANY RECORDS OR
3 RECORDS SYSTEMS REQUIRED TO BE MAINTAINED PURSUANT TO THIS PART
4 2 OR RULES OF THE ADMINISTRATOR ADOPTED TO IMPLEMENT THIS PART
5 2. THE LENDER SHALL RETAIN LOAN FILES, INCLUDING ANY RECORDS
6 SPECIFIED FOR RETENTION UNDER RULES OF THE ADMINISTRATOR, FOR NOT
7 LESS THAN SIX YEARS AFTER THE TERMINATION OF THE LOAN ACCOUNT.

8 (2) THE ADMINISTRATOR SHALL NOT MAKE PUBLIC THE NAME OR
9 IDENTITY OF A PERSON WHOSE ACTS OR CONDUCT THE ADMINISTRATOR
10 INVESTIGATES OR EXAMINES PURSUANT TO THIS PART 2 OR THE FACTS
11 DISCLOSED IN THE INVESTIGATION OR EXAMINATION.

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

17 (4) THE RESTRICTIONS ON THE DISCLOSURE OF INFORMATION IN
18 SUBSECTIONS (2) AND (3) OF THIS SECTION DO NOT APPLY TO DISCLOSURES
19 MADE BY THE ADMINISTRATOR IN FURTHERANCE OF ACTIONS OR
20 ADMINISTRATIVE ENFORCEMENT PROCEEDINGS PURSUANT TO THIS PART
21 2.

22 **5-20-212. Collection on debt - prerequisites - documentation.**

23 (1) (a) UNLESS THE PRIVATE EDUCATION LOAN BORROWER HAS
24 INVOKED HIS OR HER RIGHT TO CEASE COMMUNICATION WITH THE
25 COLLECTION AGENCY, A COLLECTION AGENCY ATTEMPTING TO COLLECT
26 A PRIVATE EDUCATION LOAN SHALL PROVIDE THE FOLLOWING
27 INFORMATION, IN ADDITION TO ANY OTHER INFORMATION REQUIRED

1 UNDER APPLICABLE FEDERAL OR STATE LAW, TO THE PRIVATE EDUCATION
2 LOAN BORROWER IN THE DEBT COLLECTION COMMUNICATION
3 IMMEDIATELY FOLLOWING THE COMMUNICATION CONFIRMING THE
4 CORRECT IDENTITY OF THE PRIVATE EDUCATION LOAN BORROWER AND AT
5 ANY OTHER TIME THE PRIVATE EDUCATION LOAN BORROWER SO
6 REQUESTS:

7 (I) FOR PRIVATE EDUCATION LOANS REFERRED TO COLLECTIONS ON
8 OR AFTER THE EFFECTIVE DATE OF THIS PART 2, THE NAME OF THE OWNER
9 OF THE PRIVATE EDUCATION LOAN DEBT;

10 (II) THE NAME OF THE TRUE ORIGINAL LENDER AND EVERY
11 SUBSEQUENT LOAN HOLDER, IF APPLICABLE;

12 (III) THE TRUE ORIGINAL LENDER'S ACCOUNT NUMBER USED TO
13 IDENTIFY THE PRIVATE EDUCATION LOAN DEBT AT THE TIME OF DEFAULT,
14 IF THE TRUE ORIGINAL LENDER USED AN ACCOUNT NUMBER TO IDENTIFY
15 THE PRIVATE EDUCATION LOAN DEBT AT THE TIME OF DEFAULT. THE
16 COLLECTION AGENCY MAY RELY ON ACCOUNT NUMBERS PROVIDED BY THE
17 LENDER.

18 (IV) THE AMOUNT DUE WHEN THE PRIVATE EDUCATION LOAN WAS
19 REFERRED TO COLLECTIONS;

20 (V) FOR PRIVATE EDUCATION LOANS REFERRED TO COLLECTIONS
21 ON OR AFTER THE EFFECTIVE DATE OF THIS PART 2, A LOG OF ALL
22 PAYMENTS MADE ON THE STUDENT LOAN ACCOUNT; ___

23 (VI) A COPY OF ALL PAGES OF THE CONTRACT, APPLICATION, OR
24 OTHER DOCUMENTS EVIDENCING THE PRIVATE EDUCATION LOAN
25 BORROWER'S LIABILITY FOR THE PRIVATE EDUCATION LOAN, STATING ALL
26 TERMS AND CONDITIONS APPLICABLE TO THE LOAN; AND

27 (VII) A CLEAR AND CONSPICUOUS STATEMENT DISCLOSING THAT

1 THE PRIVATE EDUCATION LOAN BORROWER HAS A RIGHT TO REQUEST ALL
2 NONPRIVILEGED INFORMATION POSSESSED BY THE LENDER OR COLLECTION
3 AGENCY RELATED TO THE DEFAULTED PRIVATE EDUCATION LOAN DEBT,
4 INCLUDING THE REQUIRED INFORMATION DESCRIBED IN SUBSECTION (2) OF
5 THIS SECTION, AND THAT FAILURE TO PROVIDE THAT INFORMATION WITHIN
6 THIRTY DAYS AFTER SUCH A REQUEST PRECLUDES THE COLLECTION
7 AGENCY FROM COLLECTING OR ATTEMPTING TO COLLECT THE DEBT.

8 (1.5) (a) FROM THE INFORMATION LISTED IN SUBSECTION (1)(a) OF
9 THIS SECTION, THE COLLECTION AGENCY MAY REDACT THE PRIVATE
10 EDUCATION LOAN BORROWER'S SOCIAL SECURITY NUMBER, ALL BUT THE
11 LAST FOUR DIGITS OF THE PRIVATE EDUCATION LOAN BORROWER'S
12 ACCOUNT NUMBER, AND ANY OTHER PERSONAL IDENTIFYING
13 INFORMATION. A COLLECTION AGENCY THAT, IN GOOD FAITH, ATTEMPTS
14 TO VALIDATE THE IDENTITY OF THE BORROWER AND SENDS THE
15 INFORMATION REQUIRED BY THIS SECTION IN CONJUNCTION WITH THE
16 NOTICE REQUIRED BY 15 U.S.C. 1692g (a) IS DEEMED TO HAVE VERIFIED
17 THE IDENTITY OF THE BORROWER FOR PURPOSES OF THIS SECTION.

18 (b) THE INFORMATION LISTED IN SUBSECTION (1)(a) OF THIS
19 SECTION MAY ACCOMPANY ANY DEBT VALIDATION NOTICE ISSUED TO THE
20 DEBTOR PURSUANT TO SECTION 5-16-109 (1).

21 (2) A COLLECTION AGENCY SHALL NOT COLLECT OR ATTEMPT TO
22 COLLECT A PRIVATE EDUCATION LOAN DEBT UNLESS THE COLLECTION
23 AGENCY POSSESSES, AND FURNISHES THE FOLLOWING INFORMATION TO
24 THE PRIVATE EDUCATION LOAN BORROWER UPON REQUEST WITHIN THIRTY
25 DAYS AFTER THE REQUEST; AND, FOR LOANS REFERRED TO COLLECTIONS
26 BEFORE THE EFFECTIVE DATE OF THIS PART 2, THE COLLECTION AGENCY
27 SHALL HAVE THIRTY DAYS TO ACQUIRE THE INFORMATION FROM THE

1 PRIVATE EDUCATION LENDER:

2 (a) THE NAME OF THE OWNER OF THE PRIVATE EDUCATION LOAN;

3 (b) THE NAME OF THE TRUE ORIGINAL LENDER AND EVERY
4 SUBSEQUENT LOAN HOLDER, IF APPLICABLE;

5 (c) THE TRUE ORIGINAL LENDER'S ACCOUNT NUMBER USED TO
6 IDENTIFY THE PRIVATE EDUCATION LOAN AT THE TIME OF DEFAULT, IF THE
7 TRUE ORIGINAL LENDER USED AN ACCOUNT NUMBER TO IDENTIFY THE
8 LOAN AT THE TIME OF DEFAULT, AND THE ACCOUNT NUMBER ASSIGNED TO
9 THE LOAN BY EACH SUBSEQUENT LOAN HOLDER, IF KNOWN;

10 (d) THE AMOUNT DUE WHEN THE PRIVATE EDUCATION LOAN WAS
11 REFERRED TO COLLECTIONS;

12

13 (e) AN ITEMIZATION OF INTEREST AND FEES, IF ANY, CLAIMED TO
14 BE OWED AND WHETHER THOSE WERE IMPOSED BY THE TRUE ORIGINAL
15 LENDER OR ANY SUBSEQUENT OWNERS OF THE PRIVATE EDUCATION LOAN.

16 THE COLLECTION AGENCY MAY RELY ON INFORMATION PROVIDED BY THE
17 LENDER.

18 (f) THE DATE THAT THE PRIVATE EDUCATION LOAN WAS INCURRED;

19

20 (g) A BILLING STATEMENT OR OTHER ACCOUNT RECORD
21 INDICATING THE DATE OF THE LAST PAYMENT MADE ON THE PRIVATE
22 EDUCATION LOAN, IF APPLICABLE;

23

24

25 (h) (I) A LOG OF ALL COLLECTION ATTEMPTS MADE BY THE
26 COLLECTION AGENCY IN THE IMMEDIATELY PRECEDING TWELVE MONTHS,
27 INCLUDING THE DATE AND TIME OF ALL CALLS AND LETTERS; AND

1 (II) FOR PRIVATE EDUCATION LOANS REFERRED TO COLLECTIONS
2 ON OR AFTER THE EFFECTIVE DATE OF THIS PART 2, COPIES OF ALL
3 SETTLEMENT LETTERS OR, IN THE ALTERNATIVE, A STATEMENT THAT THE
4 COLLECTION AGENCY HAS NOT ATTEMPTED TO SETTLE OR OTHERWISE
5 RENEGOTIATE THE DEBT;

6 (i) A COPY OF ALL PAGES OF THE CONTRACT, APPLICATION, OR
7 OTHER DOCUMENTS EVIDENCING THE PRIVATE EDUCATION LOAN
8 BORROWER'S LIABILITY FOR THE PRIVATE EDUCATION LOAN, STATING ALL
9 TERMS AND CONDITIONS APPLICABLE TO THE LOAN; AND

10 (j) DOCUMENTATION ESTABLISHING THAT THE COLLECTION
11 AGENCY IS THE OWNER, OR ACTING ON BEHALF OF THE OWNER, OF THE
12 SPECIFIC, INDIVIDUAL PRIVATE EDUCATION LOAN AT ISSUE. IF THE
13 PRIVATE EDUCATION LOAN BORROWER DISPUTES THE OWNERSHIP OR
14 ASSIGNMENT OF THE LOAN, THE COLLECTION AGENCY SHALL BEAR THE
15 BURDEN OF ESTABLISHING THE UNBROKEN CHAIN OF OWNERSHIP,
16 BEGINNING WITH THE TRUE ORIGINAL LENDER TO THE FIRST SUBSEQUENT
17 LOAN HOLDER AND EACH ADDITIONAL LOAN HOLDER.

18
19 (3) UPON A PRIVATE EDUCATION LOAN BORROWER'S DEFAULT IN
20 PAYMENT ON A PRIVATE EDUCATION LOAN, AND BEFORE A LENDER MAY
21 ACCELERATE THE MATURITY OF THE LOAN OR COMMENCE A LEGAL ACTION
22 AGAINST THE PRIVATE EDUCATION LOAN BORROWER, THE LENDER SHALL
23 PROVIDE TO THE PRIVATE EDUCATION LOAN BORROWER A NOTICE OF
24 INTENTION TO ACCELERATE THE LOAN. THE LENDER SHALL PROVIDE THE
25 NOTICE AT LEAST THIRTY DAYS, BUT NOT MORE THAN ONE HUNDRED DAYS,
26 IN ADVANCE OF THE ACTION.

27 (4) (a) A LENDER OR DEBT BUYER THAT INTENDS TO COLLECT OR

1 ATTEMPT TO COLLECT A PRIVATE EDUCATION LOAN DEBT SHALL PROVIDE
2 WRITTEN NOTICE OF THAT INTENTION TO THE PRIVATE EDUCATION LOAN
3 BORROWER BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT
4 REQUESTED, AT THE PRIVATE EDUCATION LOAN BORROWER'S LAST-KNOWN
5 ADDRESS.

6 (b) THE NOTICE REQUIRED BY THIS SUBSECTION (4):

7 (I) IS EFFECTIVE ON THE DATE IT IS DELIVERED IN PERSON OR
8 MAILED, AS APPLICABLE; AND

9 (II) MUST CONTAIN ALL INFORMATION REQUIRED BY SUBSECTION
10 (2) OF THIS SECTION.

11 (5) AN ACTION TO ENTER A JUDGMENT AGAINST A PRIVATE
12 EDUCATION LOAN BORROWER MUST BE COMMENCED WITHIN SIX YEARS OF
13 THE DATE THE PRIVATE EDUCATION LOAN BORROWER FAILED TO MAKE A
14 PAYMENT.

15 (6) A LENDER OR COLLECTION AGENCY THAT, ON OR AFTER THE
16 EFFECTIVE DATE OF THIS PART 2, COMMENCES A LEGAL ACTION AGAINST
17 A PRIVATE EDUCATION LOAN BORROWER SHALL ATTACH THE FOLLOWING
18 DOCUMENTATION AND INFORMATION TO THE COMPLAINT FILED IN A COURT
19 OF COMPETENT JURISDICTION:

20 (a) A COPY OF THE NOTICE OF INTENTION PROVIDED PURSUANT TO
21 SUBSECTION (4) OF THIS SECTION;

22 (b) THE DATE OF THE PARTIAL OR MISSED PAYMENT THAT LED TO
23 THE REFERRAL OF THE PRIVATE EDUCATION LOAN TO COLLECTIONS;

24 (c) THE DATE OF THE LAST PAYMENT, IF APPLICABLE;

25 ==

26 (d) A STATEMENT AS TO WHETHER THE LENDER OR COLLECTION
27 AGENCY IS WILLING TO RENEGOTIATE THE TERMS OF THE DEBT;

1 (e) A STATEMENT AS TO WHETHER THE DEBT IS ELIGIBLE FOR ANY
2 MODIFIED OR FLEXIBLE REPAYMENT OPTION.

3

4 **5-20-213. Actions - counterclaims.** (1) (a) FOR LITIGATION
5 PROCEEDINGS COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS
6 PART 2, A COURT SHALL NOT ENTER A JUDGMENT ON A PRIVATE
7 EDUCATION LOAN OBLIGATION IF THE COLLECTION AGENCY DOES NOT
8 COMPLY WITH THE REQUIREMENTS OF SECTION 5-20-212.

9 (b) FOR LITIGATION PROCEEDINGS COMMENCED BEFORE THE
10 EFFECTIVE DATE OF THIS PART 2, THE COURT SHALL NOT ENTER A
11 JUDGMENT UNTIL THE COLLECTION AGENCY IS PROVIDED AN OPPORTUNITY
12 TO SUBMIT PROOF OF COMPLIANCE WITH SECTION 5-20-212.

13 (2) IF A LENDER OR COLLECTION AGENCY FAILS TO COMPLY WITH
14 THE REQUIREMENTS OF THIS PART 2, A PRIVATE EDUCATION LOAN
15 BORROWER MAY BRING AN ACTION, INCLUDING A COUNTERCLAIM,
16 AGAINST THE LENDER OR COLLECTION AGENCY TO RECOVER OR OBTAIN:

17 (a) AN ORDER SETTING ASIDE OR VACATING ANY DEFAULT
18 JUDGMENT ENTERED AGAINST THE PRIVATE EDUCATION LOAN BORROWER;

19 (b) A JUDGMENT IN FAVOR OF THE PRIVATE EDUCATION LOAN
20 BORROWER;

21 (c) ACTUAL DAMAGES OR FIVE HUNDRED DOLLARS, WHICHEVER IS
22 GREATER;

23 (d) RESTITUTION OF ALL MONEY TAKEN FROM OR PAID BY THE
24 PRIVATE EDUCATION LOAN BORROWER AFTER A JUDGMENT WAS OBTAINED
25 BY A CREDITOR;

26 (e) PUNITIVE DAMAGES;

27 (f) INJUNCTIVE RELIEF;

1 (g) CORRECTION OF THE PRIVATE EDUCATION LOAN BORROWER'S
2 CREDIT REPORT;

3 (h) ATTORNEY FEES AND COURT COSTS; AND

4 (i) ANY OTHER RELIEF THAT THE COURT DEEMS PROPER.

5 **5-20-214. Remedies - civil actions - limitations - deceptive**

6 **trade practice.** (1) IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY
7 THIS PART 2 OR OTHERWISE PROVIDED BY LAW, WHENEVER IT IS PROVEN
8 BY A PREPONDERANCE OF THE EVIDENCE THAT A LENDER OR COLLECTION
9 AGENCY HAS FILED WITH _____ A COURT OR PROVIDED TO THE PRIVATE
10 EDUCATION LOAN BORROWER INFORMATION REQUIRED UNDER THIS PART
11 2 THAT IS FALSE, THE COURT SHALL AWARD TO THE PRIVATE EDUCATION
12 LOAN BORROWER THE GREATER OF:

13 (a) TREBLE DAMAGES; OR

14 (b) ONE THOUSAND FIVE HUNDRED DOLLARS.

15 (2) A PRIVATE EDUCATION LOAN BORROWER OR COSIGNER WHO
16 SUFFERS DAMAGE AS A RESULT OF A VIOLATION OF THIS PART 2 MAY BRING
17 AN ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER:

18 (a) THE GREATER OF ACTUAL DAMAGES OR FIVE HUNDRED
19 DOLLARS;

20 _____

21 (b) AN ORDER REQUIRING THE LENDER OR COLLECTION AGENCY TO
22 TAKE ALL ACTIONS NECESSARY TO CORRECT THE PRIVATE EDUCATION
23 LOAN BORROWER'S CREDIT REPORT;

24 (c) PUNITIVE DAMAGES;

25 (d) ATTORNEY FEES AND COURT COSTS; AND

26 (e) ANY OTHER RELIEF THAT THE COURT DEEMS PROPER.

27 (2.5) A COURT SHALL NOT AWARD MONETARY DAMAGES UNDER

1 BOTH THIS PART 2 AND ARTICLE 16 OF THIS TITLE 5 OR 15 U.S.C. 1692k
2 FOR VIOLATIONS OF LAW ARISING FROM SPECIFIC INSTANCES OF THE SAME
3 CONDUCT.

4 (3) NOTWITHSTANDING ARTICLE 80 OF TITLE 13, ALL ACTIONS
5 BROUGHT UNDER THIS PART 2 MUST BE COMMENCED WITHIN SIX YEARS
6 AFTER THE DATE ON WHICH ANY VIOLATION OF THIS PART 2 OCCURRED,
7 WITHIN SIX YEARS AFTER THE DATE ON WHICH THE LAST IN A SERIES OF
8 SUCH ACTS OR PRACTICES OCCURRED, OR WITHIN SIX YEARS AFTER THE
9 PLAINTIFF DISCOVERED, OR IN THE EXERCISE OF REASONABLE DILIGENCE
10 SHOULD HAVE DISCOVERED, THE OCCURRENCE OF A VIOLATION OF THIS
11 PART 2; EXCEPT THAT THE PERIOD OF LIMITATION PROVIDED IN THIS
12 SUBSECTION (3) MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE
13 PLAINTIFF PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS
14 CAUSED BY THE DEFENDANT ENGAGING IN CONDUCT CALCULATED TO
15 INDUCE THE PLAINTIFF TO REFRAIN FROM OR POSTPONE THE
16 COMMENCEMENT OF THE ACTION.

17 (4) A VIOLATION OF THIS PART 2 IS A DECEPTIVE TRADE PRACTICE
18 AS SPECIFIED IN SECTION 6-1-105. A PRIVATE EDUCATION LENDER OR
19 COLLECTION AGENCY THAT FAILS TO COMPLY WITH ANY REQUIREMENT
20 IMPOSED UNDER THIS PART 2 WITH RESPECT TO A PRIVATE EDUCATION
21 LOAN BORROWER OR COSIGNER IS LIABLE IN AN AMOUNT EQUAL TO THE
22 SUM OF:

23 (a) ANY ACTUAL DAMAGES SUSTAINED BY THE PRIVATE
24 EDUCATION LOAN BORROWER OR COSIGNER AS A RESULT OF THE FAILURE;

25 (b) A MONETARY AWARD EQUAL TO THREE TIMES THE TOTAL
26 AMOUNT THE PRIVATE EDUCATION LENDER OR COLLECTION AGENCY
27 COLLECTED FROM THE PRIVATE EDUCATION LOAN BORROWER OR

1 COSIGNER IN VIOLATION OF THIS PART 2;

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

3 (d) IN THE CASE OF ANY SUCCESSFUL ACTION BY A PRIVATE
4 EDUCATION LOAN BORROWER TO ENFORCE THE LIABILITY SET OUT IN THIS
5 SECTION, THE COSTS OF THE ACTION, TOGETHER WITH REASONABLE
6 ATTORNEY FEES AS DETERMINED BY THE COURT.

7 (5) THE REMEDIES PROVIDED IN THIS SECTION ARE NOT THE
8 EXCLUSIVE REMEDIES AVAILABLE TO A PRIVATE EDUCATION LOAN
9 BORROWER OR COSIGNER.

10

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11 **SECTION 6.** In Colorado Revised Statutes, 5-20-104, **amend**
12 (3)(a) and (3)(c) as follows:

13 **5-20-104. Student loan ombudsperson - report - fund - rules**
14 **- repeal. (3) Student loan ombudsperson and student loan servicer**
15 **licensing fund.** (a) The student loan ombudsperson and student loan
16 servicer licensing fund, referred to in this section as the "fund", is hereby
17 created in the state treasury. The fund consists of licensing and
18 investigation fees collected pursuant to ~~section 5-20-107~~ SECTIONS
19 5-20-107 AND 5-20-203 (2)(a), civil penalties collected pursuant to
20 sections 5-20-114, and 5-20-117, AND 5-20-203 (4), any other money
21 required by law to be deposited in the fund, and any other money that the
22 general assembly may appropriate or transfer to the fund.

23 (c) All money held in the fund is continuously appropriated to the
24 department of law. The administrator shall expend money held in the fund
25 to administer this ~~article 20~~ PART 1.

26 **SECTION 7.** In Colorado Revised Statutes, **amend** 5-20-105 as
27 follows:

1 **5-20-105. License required.** On or after January 31, 2020, a
2 person shall not act as a student loan servicer, directly or indirectly,
3 without first obtaining a student loan servicing license from the
4 administrator pursuant to this ~~article-20~~ PART 1.

5 **SECTION 8.** In Colorado Revised Statutes, 5-20-106, **amend**
6 (3)(b)(II), (3)(b)(IV), (4), (8), (9), (11)(a) introductory portion, and
7 (11)(a)(I) as follows:

8 **5-20-106. Licensure of student loan servicers.**

9 **(3) Investigation of applicant.** (b) The administrator may issue a
10 license pursuant to this section if the administrator finds that:

11 (II) The applicant's business will be conducted honestly, fairly,
12 equitably, carefully, and efficiently within the purposes and intent of this
13 ~~article-20~~ PART 1 and in a manner commanding the confidence and trust
14 of the community;

15 (IV) No person acting on behalf of the applicant knowingly has
16 made an incorrect statement of a material fact in the application or in any
17 report or statement made pursuant to this ~~article-20~~ PART 1; and

18 **(4) License expiration.** A license issued pursuant to this section
19 expires each January 31 unless renewed or earlier surrendered, suspended,
20 or revoked pursuant to this ~~article-20~~ PART 1. No later than fifteen days
21 after a licensee ceases to engage in the business of servicing in this state
22 for any reason, including a business decision to terminate operations in
23 this state, license revocation, bankruptcy, or voluntary dissolution, the
24 licensee shall provide written notice of surrender to the administrator and
25 shall surrender to the administrator its license for each location in which
26 the licensee has ceased to engage in servicing. The written notice of
27 surrender must identify the location where the records of the licensee will

1 be stored and the name, address, and telephone number of a person
2 authorized to provide access to the records. The surrender of a license
3 does not reduce or eliminate the licensee's civil or criminal liability
4 arising from acts or omissions occurring before the surrender of the
5 license, including any administrative actions undertaken by the
6 administrator to revoke or suspend a license, assess a civil penalty, order
7 restitution, or exercise any other authority provided to the administrator.

8 (8) **Incomplete application.** The administrator may consider an
9 application for a license under this section abandoned if the applicant fails
10 to respond to any request for information required under this ~~article 20~~
11 PART 1 or any rules adopted pursuant to this ~~article 20~~ PART 1, as long as
12 the administrator notifies the applicant, in writing, that the application
13 will be considered abandoned if the applicant fails to submit the
14 information within sixty days after the date on which the request for
15 information was made. Abandonment of an application pursuant to this
16 subsection (8) does not preclude the applicant from submitting a new
17 application for a license under this ~~article 20~~ PART 1.

18 (9) **Change of license notification.** A licensee under this section
19 shall not act within this state as a student loan servicer under any name or
20 at any place of business other than those named in the license. A licensee
21 shall give prior written notice to the administrator of a change of business
22 location. A licensee shall not operate more than one place of business
23 under the same license, but the administrator may issue more than one
24 license to a licensee that complies with this ~~article 20~~ PART 1 as to each
25 license. A license is not transferable or assignable.

26 (11) **License suspension and revocation - refusal to renew.**
27 (a) The administrator may suspend, revoke, annul, limit, modify, or

1 refuse to renew a license issued pursuant to subsection (2) of this section
2 or take any other action in accordance with this ~~article 20~~ PART 1 if the
3 administrator finds one or more of the following:

4 (I) The licensee has violated any provision of this ~~article 20~~ PART
5 1 or any rule lawfully adopted or order lawfully issued pursuant to and
6 within the authority of this ~~article 20~~ PART 1; or

7 **SECTION 9.** In Colorado Revised Statutes, **amend** 5-20-111 as
8 follows:

9 **5-20-111. Compliance with federal law.** A student loan servicer
10 shall comply with all applicable federal laws and regulations relating to
11 servicing, including the federal "Truth in Lending Act", 15 U.S.C. sec.
12 1601 to 1667f, as amended, and the regulations adopted pursuant to that
13 act. In addition to any other remedies provided by law, a violation of that
14 act or regulations adopted pursuant to that act is a violation of this ~~article~~
15 ~~20~~ PART 1 and a basis upon which the administrator may take enforcement
16 action pursuant to this ~~article 20~~ PART 1.

17 **SECTION 10.** In Colorado Revised Statutes, 5-20-112, **amend**
18 (1), (2) introductory portion, and (2)(b) as follows:

19 **5-20-112. Civil action.** (1) A violation of this ~~article 20~~ PART 1
20 is a deceptive trade practice within the meaning of section 6-1-105.

21 (2) A student loan servicer who fails to comply with any
22 requirement imposed under this ~~article 20~~ PART 1 with respect to a student
23 loan borrower is liable in an amount equal to the sum of:

24 (b) A monetary award equal to three times the total amount the
25 student loan servicer collected from the student loan borrower in violation
26 of this ~~article 20~~ PART 1;

27 **SECTION 11.** In Colorado Revised Statutes, **amend** 5-20-113 as

1 follows:

2 **5-20-113. Application of administrative procedures -**
3 **provisions.** Except as otherwise provided, sections 24-4-102 to 24-4-106
4 apply to and govern all rules promulgated and all administrative action
5 taken by the administrator pursuant to this ~~article 20~~ PART 1; except that
6 section 24-4-104 (3) does not apply to any such action.

7 **SECTION 12.** In Colorado Revised Statutes, 5-20-114, **amend**
8 (1) as follows:

9 **5-20-114. Administrative enforcement orders.** (1) After notice
10 and hearing, the administrator may order a student loan servicer or a
11 person acting in the student loan servicer's behalf to cease and desist from
12 engaging in violations of this ~~article 20~~ PART 1 or any rule lawfully
13 adopted or order lawfully issued pursuant to this ~~article 20~~ PART 1. The
14 order issued by the administrator may also require the student loan
15 servicer or person to make refunds to persons of unlawful charges under
16 this ~~article 20~~ PART 1 and an administrative penalty of up to one thousand
17 five hundred dollars per violation, all or part of which may be specifically
18 designated for consumer and creditor educational purposes.

19 **SECTION 13.** In Colorado Revised Statutes, **amend** 5-20-115 as
20 follows:

21 **5-20-115. Assurance of discontinuance.** If it is claimed that a
22 person has violated this ~~article 20~~ PART 1, the administrator may accept
23 an assurance in writing that the person will not engage in the conduct in
24 the future. The assurance may also require the person to make refunds to
25 persons of unlawful charges under this ~~article 20~~ PART 1, pay a penalty
26 authorized in section 5-20-114 (1), all or part of which may be
27 specifically designated for consumer and creditor educational purposes,

1 and reimburse the administrator for the administrator's reasonable costs
2 incurred in investigating the conduct. If a person giving an assurance of
3 discontinuance fails to comply with its terms, the assurance is evidence
4 that prior to the assurance the person engaged in the conduct described in
5 the assurance.

6 **SECTION 14.** In Colorado Revised Statutes, **amend 5-20-116** as
7 follows:

8 **5-20-116. Injunctions.** The administrator may bring a civil action
9 to restrain a person from violating this ~~article 20~~ PART 1 or rules
10 promulgated pursuant to this ~~article 20~~ PART 1 and for other appropriate
11 relief, including such orders or judgments as may be necessary to
12 completely compensate or restore any person affected by the violation to
13 the person's original position. The administrator may also apply for a
14 temporary restraining order or a preliminary injunction against a
15 respondent pending final determination of proceedings. No bond or other
16 security is required of the administrator before relief under this section
17 may be granted.

18 **SECTION 15.** In Colorado Revised Statutes, **amend 5-20-117** as
19 follows:

20 **5-20-117. Civil actions by the administrator.** The administrator
21 may bring a civil action against a student loan servicer for any violation
22 of this ~~article 20~~ PART 1. An action may relate to transactions with more
23 than one person. The court may order a student loan servicer to refund to
24 a person any charges collected in violation of this ~~article 20~~ PART 1 and
25 may also assess civil penalties against the student loan servicer as set
26 forth in section 5-20-112 (2). If the administrator prevails in an action
27 brought under this section, the administrator may recover reasonable costs

1 in investigating and bringing the action and may recover reasonable
2 attorney fees.

3 **SECTION 16.** In Colorado Revised Statutes, **amend 5-20-118** as
4 follows:

5 **5-20-118. Limitations.** Notwithstanding article 80 of title 13, all
6 actions brought under this ~~article 20~~ PART 1 must be commenced within
7 four years after the date on which any violation of this ~~article 20~~ PART 1
8 occurred or the date on which the last in a series of such acts or practices
9 occurred or within four years after the plaintiff discovered or in the
10 exercise of reasonable diligence should have discovered the occurrence
11 of a violation of this ~~article 20~~ PART 1; except that the period of limitation
12 provided in this section may be extended for a period of one year if the
13 plaintiff proves that failure to timely commence the action was caused by
14 the defendant engaging in conduct calculated to induce the plaintiff to
15 refrain from or postpone the commencement of the action.

16 **SECTION 17.** In Colorado Revised Statutes, **amend 5-20-119** as
17 follows:

18 **5-20-119. Confidential information.** (1) The administrator shall
19 not make public the name or identity of a person whose acts or conduct
20 the administrator investigates or examines pursuant to this ~~article 20~~ PART
21 1 or the facts disclosed in the investigation or examination.

22 (2) The administrator may disclose license application and
23 renewal records provided to the administrator and other contents of
24 license records maintained pursuant to this ~~article 20~~ PART 1, but the
25 administrator shall not make public the confidential information
26 contained in the records.

27 (3) The restrictions on the disclosure of information in subsections

1 (1) and (2) of this section do not apply to disclosures by the administrator
2 in actions or administrative enforcement proceedings pursuant to this
3 ~~article 20~~ PART 1.

4 **SECTION 18.** In Colorado Revised Statutes, 24-5-102, **amend**
5 (3)(e) as follows:

6 **24-5-102. Employee information - student loan repayment and**
7 **forgiveness programs - legislative declaration - definitions.**

8 (3) (e) The information provided pursuant to this section must include a
9 summary of the public service loan forgiveness program, the teacher loan
10 forgiveness program, and federal student loan repayment programs,
11 including who may be eligible for the programs, steps that an eligible
12 employee must take in order to participate in the programs, and a
13 recommendation that employees contact their student loan servicer OR
14 PRIVATE EDUCATION LENDER or an ombudsman at the state, if one exists,
15 for additional information.

16 **SECTION 19. Applicability.** This act applies to conduct
17 occurring on or after the effective date of this act, including collection of
18 debts arising out of loans issued before the effective date of this act.

19 **SECTION 20. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety.