

1 **SENATE FLOOR VERSION**

2 February 11, 2021

3 SENATE BILL NO. 261

By: Montgomery

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6 An Act relating to student loans; creating the
7 Oklahoma Student Borrower's Bill of Rights Act;
8 defining terms; directing the Attorney General to
9 prepare certain statement and make available to
10 public; prohibiting certain actions by student loan
11 servicers; providing for codification; and providing
12 an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 170 of Title 24, unless there is
16 created a duplication in numbering, reads as follows:

17 This act shall be known and may be cited as the "Oklahoma
18 Student Borrower's Bill of Rights Act".

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 171 of Title 24, unless there is
21 created a duplication in numbering, reads as follows:

22 As used in the Oklahoma Student Borrower's Bill of Rights Act:

23 1. "Guarantor" means a nonprofit or state organization that
24 works with a lender, servicer, school and the State Department of

1 Education to help students successfully repay certain federal
2 student loans;

3 2. "Student loan borrower" means:

4 a. any resident of this state who has received or agreed
5 to pay a student education loan, or

6 b. any person who shares responsibility with such
7 resident for repaying the student education loan;

8 3. "Student loan servicer" means any person, wherever located,
9 responsible for the servicing of any student education loan to any
10 student loan borrower;

11 4. "Servicing" means:

12 a. receiving any scheduled periodic payments from a
13 student loan borrower pursuant to the terms of a
14 student education loan,

15 b. applying the payments of principal and interest and
16 such other payments with respect to the amounts
17 received from a student loan borrower, as may be
18 required pursuant to the terms of a student education
19 loan, and

20 c. performing other administrative services with respect
21 to a student education loan.

22 Servicing does not include default aversion efforts provided by
23 state or nonprofit guaranty agencies as required by their agreement

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1 with the U.S. Department of Education under the Higher Education Act
2 of 2008; and

3 5. "Student education loan" means any loan primarily for
4 personal use to finance education or other school-related expenses.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 172 of Title 24, unless there is
7 created a duplication in numbering, reads as follows:

8 A. The Attorney General shall prepare a written statement that
9 includes an "Oklahoma Student Borrower's Bill of Rights" for a
10 student loan borrower who takes out a student education loan that is
11 serviced by a student loan servicer. The statement shall
12 incorporate all items from subsection B of this section and be made
13 available to the public and written in plain language designed to be
14 easily understood by the average student loan borrower.

15 B. No student loan servicer shall:

16 1. Directly or indirectly employ any scheme, device or artifice
17 to defraud or mislead student loan borrowers;

18 2. Engage in any unfair or deceptive practice toward any person
19 or misrepresent or omit any material information in connection with
20 the servicing of a student education loan including but not limited
21 to, misrepresenting the amount, nature or terms of any fee or
22 payment due or claimed to be due on a student education loan, the
23 terms and conditions of the loan agreement or the borrower's
24 obligations under the loan;

- 1 3. Obtain property by fraud or misrepresentation;
- 2 4. Incorrectly apply or fail to apply student education loan
3 payments to the outstanding balance of a student education loan;
- 4 5. Provide inaccurate information to a credit bureau, thereby
5 harming a student loan borrower's creditworthiness;
- 6 6. Fail to report both the favorable and unfavorable payment
7 history of the student loan borrower to a nationally recognized
8 consumer credit bureau at least annually if the student loan
9 servicer regularly reports information to a credit bureau, except in
10 the case of loan rehabilitation;
- 11 7. Refuse to communicate with an authorized representative of
12 the student loan borrower who provides a written authorization
13 signed by the student loan borrower, provided the student loan
14 servicer may adopt procedures reasonably related to verifying that
15 the representative is in fact authorized to act on behalf of the
16 student loan borrower;
- 17 8. Make any false statement or make any omission of a material
18 fact in connection with any information or reports filed with a
19 governmental agency or in connection with any investigation
20 conducted by a governmental agency;
- 21 9. Fail to inform borrowers of the federal income repayment
22 options before offering deferment or forbearance as an option; or
- 23 10. Inform student loan borrower if their type of loan does not
24 qualify for loan forgiveness programs.

1 SECTION 4. This act shall become effective November 1, 2021.

2 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
3 February 11, 2021 - DO PASS
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