

REFERENCE TITLE: student loan servicers; licensure.

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2132

Introduced by
Representatives Salman: Aguilar, Stahl Hamilton

AN ACT

AMENDING TITLE 6, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 18; RELATING TO STUDENT LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 6, Arizona Revised Statutes, is amended by adding
3 chapter 18, to read:

4 CHAPTER 18

5 STUDENT LOAN SERVICER LICENSING

6 ARTICLE 1. GENERAL PROVISIONS

7 6-1801. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "SERVICING" MEANS ALL OF THE FOLLOWING:

10 (a) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT LOAN
11 BORROWER PURSUANT TO THE TERMS OF A STUDENT EDUCATION LOAN.

12 (b) APPLYING THE PAYMENTS RECEIVED PURSUANT TO SUBDIVISION (a) OF
13 THIS PARAGRAPH PURSUANT TO THE STUDENT EDUCATION LOAN TERMS.

14 (c) PERFORMING OTHER ADMINISTRATIVE SERVICES.

15 2. "STUDENT EDUCATION LOAN" MEANS A LOAN, NOTWITHSTANDING AN
16 ELECTION OF LAW OR DESIGNATION OF STATUS IN A CONTRACT, USED MAINLY FOR
17 FINANCING EDUCATION OR OTHER SCHOOL-RELATED EXPENSES.

18 3. "STUDENT LOAN BORROWER" MEANS EITHER:

19 (a) A RESIDENT OF THIS STATE WHO HAS RECEIVED OR AGREED TO PAY A
20 STUDENT EDUCATION LOAN.

21 (b) A PERSON WHO SHARES REPAYMENT RESPONSIBILITY WITH A RESIDENT
22 DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH.

23 4. "STUDENT LOAN SERVICER" OR "LICENSEE":

24 (a) MEANS ANY PERSON, REGARDLESS OF LOCATION, RESPONSIBLE FOR
25 SERVICING A STUDENT EDUCATION LOAN TO A STUDENT LOAN BORROWER.

26 (b) INCLUDES TRUST ENTITIES PERFORMING OR RECEIVING THE BENEFIT OF
27 STUDENT LOAN SERVICING AND DEBT COLLECTION ACTIVITIES IN THIS STATE.

28 6-1802. Student loan ombudsman

29 THE POSITION OF STUDENT LOAN OMBUDSMAN IS ESTABLISHED IN THE
30 DEPARTMENT. THE OMBUDSMAN, IN CONSULTATION WITH THE DEPUTY DIRECTOR,
31 MUST:

32 1. RECEIVE AND REVIEW COMPLAINTS FROM STUDENT LOAN BORROWERS.

33 2. ATTEMPT TO RESOLVE THE COMPLAINTS, INCLUDING COLLABORATING WITH
34 INSTITUTIONS OF HIGHER EDUCATION, STUDENT LOAN SERVICERS AND ANY OTHER
35 PARTICIPANTS IN STUDENT EDUCATION LOAN LENDING.

36 3. COMPILE AND ANALYZE COMPLAINT DATA.

37 4. HELP STUDENT LOAN BORROWERS UNDERSTAND THEIR RIGHTS AND
38 RESPONSIBILITIES UNDER THE TERMS OF STUDENT EDUCATION LOANS.

39 5. PROVIDE INFORMATION TO THE PUBLIC, AGENCIES, LEGISLATORS AND
40 OTHERS ABOUT STUDENT LOAN BORROWERS' PROBLEMS AND CONCERNS AND MAKE
41 RECOMMENDATIONS FOR RESOLUTION.

42 6. ANALYZE AND MONITOR THE DEVELOPMENT AND IMPLEMENTATION OF
43 FEDERAL, STATE AND LOCAL LAWS ON STUDENT LOAN BORROWERS AND RECOMMEND
44 NECESSARY CHANGES.

1 7. REVIEW THE STUDENT EDUCATION LOAN HISTORY FOR STUDENT LOAN
2 BORROWERS WHO GIVE WRITTEN CONSENT.

3 8. DISSEMINATE INFORMATION ABOUT THE OMBUDSMAN'S AVAILABILITY TO
4 HELP THOSE WITH SERVICING CONCERNS, SUCH AS STUDENT LOAN BORROWERS,
5 POTENTIAL STUDENT LOAN BORROWERS, STATE HIGHER EDUCATION INSTITUTIONS AND
6 STUDENT LOAN SERVICERS.

7 9. TAKE ANY OTHER ACTIONS NECESSARY TO FULFILL THE OMBUDSMAN'S
8 DUTIES.

9 10. ESTABLISH A STUDENT LOAN BORROWER EDUCATION COURSE ON OR BEFORE
10 OCTOBER 1, 2023. THE COURSE MUST:

11 (a) INCLUDE EDUCATIONAL PRESENTATIONS AND MATERIAL ABOUT STUDENT
12 EDUCATION LOANS.

13 (b) COVER KEY STUDENT EDUCATION LOAN TERMS, DOCUMENTATION
14 REQUIREMENTS, MONTHLY PAYMENT OBLIGATIONS, INCOME-BASED REPAYMENT OPTIONS,
15 STUDENT EDUCATION LOAN FORGIVENESS AND DISCLOSURE REQUIREMENTS.

16 6-1803. Student loan servicers; licenses; exceptions;
17 applications; denial

18 A. A PERSON ACTING AS A STUDENT LOAN SERVICER MUST OBTAIN A LICENSE
19 FROM THE DEPUTY DIRECTOR.

20 B. THE FOLLOWING ARE EXEMPT FROM THIS CHAPTER:

21 1. A BANK OR CREDIT UNION.

22 2. A WHOLLY OWNED SUBSIDIARY OF A BANK OR CREDIT UNION.

23 3. AN OPERATING SUBSIDIARY IF EACH OWNER IS WHOLLY OWNED BY THE
24 SAME BANK OR CREDIT UNION.

25 C. AN APPLICANT FOR A STUDENT LOAN SERVICER LICENSE MUST FILE A
26 WRITTEN APPLICATION, AS PRESCRIBED BY THE DEPUTY DIRECTOR, ALONG WITH ALL
27 OF THE FOLLOWING:

28 1. A NONREFUNDABLE LICENSE FEE OF \$1,000.

29 2. A NONREFUNDABLE INVESTIGATION FEE OF \$800.

30 3. A NOTARIZED FINANCIAL STATEMENT PREPARED BY A CERTIFIED PUBLIC
31 ACCOUNTANT OR PUBLIC ACCOUNTANT, THE ACCURACY OF WHICH IS ATTESTED TO BY
32 SOMEONE AUTHORIZED TO EXECUTE THE DOCUMENT.

33 4. ANY HISTORY OF CRIMINAL CONVICTIONS OF THE APPLICANT AND EACH
34 PARTNER, MEMBER, OFFICER, DIRECTOR AND PRINCIPAL EMPLOYEE OF THE
35 APPLICANT.

36 D. THE DEPUTY DIRECTOR MAY CONDUCT A STATE AND FEDERAL CRIMINAL
37 HISTORY RECORDS CHECK OF THE APPLICANT AND EACH PARTNER, MEMBER, OFFICER,
38 DIRECTOR AND PRINCIPAL EMPLOYEE OF THE APPLICANT. ON REQUEST BY THE
39 DEPUTY DIRECTOR, THE APPLICANT OR THE PARTNER, MEMBER, OFFICER, DIRECTOR
40 OR PRINCIPAL EMPLOYEE OF THE APPLICANT SHALL SUBMIT A FULL SET OF
41 FINGERPRINTS TO THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS FOR
42 THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK
43 PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF
44 PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU
45 OF INVESTIGATION.

1 E. THE DEPUTY DIRECTOR, ON RECEIPT OF THE APPLICATION AND FEES,
2 MUST ALSO INVESTIGATE THE APPLICANT'S FINANCIAL CONDITION AND
3 RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE AND CHARACTER AND
4 GENERAL FITNESS.

5 F. THE DEPUTY DIRECTOR MAY DENY A STUDENT LOAN SERVICER LICENSE IF
6 THE DEPUTY DIRECTOR DETERMINES ANY OF THE FOLLOWING:

7 1. THE APPLICANT'S FINANCIAL CONDITION IS NOT SOUND.

8 2. THE BUSINESS WILL NOT BE CONDUCTED HONESTLY, FAIRLY, EQUITABLY,
9 CAREFULLY, EFFICIENTLY, CONSISTENT WITH THE PURPOSES OF THIS CHAPTER AND
10 IN A MANNER COMMANDING THE COMMUNITY'S CONFIDENCE AND TRUST.

11 3. THE APPLICANT AND THE APPLICANT'S CONTROL PERSONS ARE NOT
12 QUALIFIED AND NOT OF GOOD CHARACTER.

13 4. SOMEONE ON BEHALF OF THE APPLICANT HAS KNOWINGLY MADE A MATERIAL
14 MISSTATEMENT OR OMISSION IN THE APPLICATION.

15 5. THE APPLICANT DOES NOT MEET OTHER REQUIREMENTS AS DETERMINED BY
16 THE DEPUTY DIRECTOR.

17 6-1804. License expiration; surrender; renewal; suspension;
18 information update; abandonment

19 A. A STUDENT LOAN SERVICER LICENSE EXPIRES AT THE CLOSE OF BUSINESS
20 ON SEPTEMBER 30 OF THE ODD-NUMBERED YEAR IMMEDIATELY FOLLOWING ITS
21 ISSUANCE, UNLESS IT IS RENEWED, SURRENDERED, SUSPENDED OR REVOKED.

22 B. WITHIN FIFTEEN DAYS AFTER A LICENSEE STOPS ENGAGING IN STUDENT
23 LOAN SERVICING AT A LOCATION IN THIS STATE, THE LICENSEE MUST SURRENDER
24 ITS LICENSE FOR THAT LOCATION AND NOTIFY THE DEPUTY DIRECTOR IN WRITING.
25 THE WRITTEN NOTICE SHALL IDENTIFY THE LOCATION WHERE THE LICENSEE'S
26 RECORDS WILL BE STORED AND THE NAME, ADDRESS AND TELEPHONE NUMBER OF AN
27 INDIVIDUAL AUTHORIZED TO PROVIDE ACCESS TO THE RECORDS. A LICENSE
28 SURRENDER DOES NOT REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL
29 LIABILITY ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE SURRENDER.

30 C. A STUDENT LOAN SERVICER LICENSE MAY BE RENEWED ONCE EVERY TWO
31 YEARS. THE RENEWAL APPLICATION MUST BE FILED BY SEPTEMBER 1 OF THE YEAR
32 IN WHICH THE LICENSE EXPIRES AND MUST BE ACCOMPANIED BY ALL DOCUMENTS AND
33 FEES REQUIRED FOR THE INITIAL LICENSURE. ANY RENEWAL APPLICATION FILED
34 AFTER THAT DATE MUST INCLUDE A LATE FEE OF \$100.

35 D. IF A LICENSEE FILES A LICENSE RENEWAL APPLICATION ON OR BEFORE
36 THE LICENSE EXPIRATION DATE, THE LICENSE REMAINS EFFECTIVE UNTIL THE
37 DEPUTY DIRECTOR ISSUES THE RENEWAL OR NOTIFIES THE LICENSEE IN WRITING OF
38 THE DEPUTY DIRECTOR'S REFUSAL TO RENEW THE LICENSE, INCLUDING THE GROUNDS
39 FOR THE REFUSAL TO RENEW. GROUNDS FOR REFUSAL TO RENEW ARE THE SAME AS
40 GROUNDS TO DENY AN INITIAL APPLICATION PURSUANT TO SECTION 6-1803.

41 E. THE DEPUTY DIRECTOR MUST AUTOMATICALLY SUSPEND THE INITIAL OR
42 RENEWAL LICENSE IF PAYMENT OF THE REQUIRED FEES IS RETURNED OR NOT
43 ACCEPTED BY THE BANK. THE DEPUTY DIRECTOR MUST GIVE THE LICENSEE NOTICE
44 OF THE AUTOMATIC SUSPENSION, PENDING PROCEEDINGS FOR REVOCATION OR REFUSAL
45 TO RENEW, AND AN OPPORTUNITY FOR A HEARING.

1 F. AN APPLICANT OR LICENSEE MUST NOTIFY THE DEPUTY DIRECTOR IN
2 WRITING OF ANY CHANGE IN THE INFORMATION PROVIDED IN ITS INITIAL LICENSE
3 APPLICATION OR MOST RECENT LICENSE RENEWAL APPLICATION WITHIN TEN BUSINESS
4 DAYS AFTER THE INFORMATION CHANGES.

5 G. THE DEPUTY DIRECTOR MAY CONSIDER AN APPLICATION ABANDONED IF THE
6 APPLICANT FAILS TO RESPOND TO ANY REQUEST FOR INFORMATION. THE DEPUTY
7 DIRECTOR MUST NOTIFY THE APPLICANT IN WRITING THAT IF THE INFORMATION IS
8 NOT SUBMITTED WITHIN SIXTY DAYS AFTER THE REQUEST DATE, THE APPLICATION
9 WILL BE DEEMED ABANDONED. APPLICATION FEES FOR ABANDONED APPLICATIONS ARE
10 NOT REFUNDABLE. THE APPLICANT MAY SUBMIT A NEW APPLICATION WITH THE
11 REQUIRED FILING FEES.

12 6-1805. Name and location

13 A STUDENT LOAN SERVICER MUST USE THE NAME AND BUSINESS ADDRESS
14 STATED IN ITS LICENSE. THE STUDENT LOAN SERVICER MUST MAINTAIN ONE PLACE
15 OF BUSINESS UNDER THE LICENSE AND NOTIFY THE DEPUTY DIRECTOR IN WRITING OF
16 ANY LOCATION CHANGE. THE DEPUTY DIRECTOR MAY ISSUE MORE THAN ONE LICENSE
17 TO A STUDENT LOAN SERVICER. A LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE.

18 6-1806. Records retention

19 A. EXCEPT AS PROVIDED IN FEDERAL LAW, A FEDERAL STUDENT EDUCATION
20 LOAN AGREEMENT OR A CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND THE
21 STUDENT LOAN SERVICER, A STUDENT LOAN SERVICER SHALL PRESERVE RECORDS OF
22 EACH STUDENT EDUCATION LOAN AND ALL COMMUNICATIONS WITH STUDENT LOAN
23 BORROWERS FOR AT LEAST TWO YEARS AFTER THE FINAL PAYMENT ON A STUDENT
24 EDUCATION LOAN OR THE SALE, ASSIGNMENT OR OTHER TRANSFER OF THE SERVICING
25 OF A STUDENT EDUCATION LOAN, WHICHEVER OCCURS FIRST, OR A LONGER PERIOD AS
26 MAY BE REQUIRED BY ANY OTHER LAW.

27 B. ON THE DEPUTY DIRECTOR'S REQUEST, A STUDENT LOAN SERVICER MUST
28 MAKE THE RECORDS AVAILABLE OR SEND THE RECORDS TO THE DEPUTY DIRECTOR
29 WITHIN FIVE BUSINESS DAYS AFTER THE REQUEST. THE DEPUTY DIRECTOR MAY ALLOW
30 ADDITIONAL TIME IF REQUESTED. THE RECORDS MUST BE SENT BY CERTIFIED MAIL,
31 RETURN RECEIPT REQUESTED OR ANY EXPRESS DELIVERY CARRIER THAT PROVIDES A
32 DATED DELIVERY RECEIPT.

33 6-1807. Federal law compliance

34 A STUDENT LOAN SERVICER MUST COMPLY WITH ALL APPLICABLE FEDERAL
35 LAWS, INCLUDING THE TRUTH IN LENDING ACT AS DEFINED IN SECTION 6-601. A
36 VIOLATION OF APPLICABLE FEDERAL LAW IS A VIOLATION OF THIS SECTION. THE
37 DEPUTY DIRECTOR MAY TAKE ENFORCEMENT ACTION AGAINST ANY VIOLATOR, IN
38 ADDITION TO ANY OTHER LEGAL REMEDIES.

39 6-1808. Prohibited practices

40 A STUDENT LOAN SERVICER MAY NOT:

41 1. EMPLOY, DIRECTLY OR INDIRECTLY, ANY SCHEME, DEVICE OR ARTIFICE
42 TO DEFRAUD OR MISLEAD STUDENT LOAN BORROWERS.

43 2. ENGAGE IN ANY UNFAIR OR DECEPTIVE PRACTICE TOWARD ANY PERSON OR
44 MISREPRESENT OR OMIT ANY MATERIAL INFORMATION IN CONNECTION WITH THE

1 SERVICING OF A STUDENT EDUCATION LOAN, INCLUDING ANY FEES, PAYMENTS DUE,
2 STUDENT EDUCATION LOAN TERMS OR STUDENT LOAN BORROWER OBLIGATIONS.

3 3. OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION.

4 4. MISAPPLY OR RECKLESSLY APPLY STUDENT EDUCATION LOAN PAYMENTS TO
5 A STUDENT EDUCATION LOAN'S OUTSTANDING BALANCE.

6 5. PROVIDE INACCURATE INFORMATION TO A CREDIT BUREAU, CAUSING HARM
7 TO A STUDENT LOAN BORROWER'S CREDITWORTHINESS.

8 6. FAIL TO REPORT BOTH THE FAVORABLE AND UNFAVORABLE PAYMENT
9 HISTORY OF THE STUDENT LOAN BORROWER TO A NATIONALLY RECOGNIZED CONSUMER
10 CREDIT BUREAU AT LEAST ANNUALLY IF THE STUDENT LOAN SERVICER REGULARLY
11 REPORTS INFORMATION TO A CREDIT BUREAU.

12 7. REFUSE TO COMMUNICATE WITH AN AUTHORIZED REPRESENTATIVE OF THE
13 STUDENT LOAN BORROWER WHO PROVIDES A WRITTEN AUTHORIZATION SIGNED BY THE
14 STUDENT LOAN BORROWER.

15 8. MAKE ANY FALSE STATEMENT OR OMIT A MATERIAL FACT IN CONNECTION
16 WITH ANY INFORMATION OR REPORTS FILED WITH A GOVERNMENT AGENCY OR IN
17 CONNECTION WITH ANY INVESTIGATION CONDUCTED BY THE DEPUTY DIRECTOR OR
18 ANOTHER GOVERNMENT AGENCY.

19 9. COMMUNICATE WITH STUDENT LOAN BORROWERS IN ANY MANNER DESIGNED
20 TO HARASS OR INTIMIDATE.

21 6-1809. Student loan servicer responsibilities

22 EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, A FEDERAL STUDENT
23 EDUCATION LOAN AGREEMENT OR A CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND
24 THE STUDENT LOAN SERVICER:

25 1. IF A STUDENT LOAN SERVICER REGULARLY REPORTS INFORMATION TO A
26 CONSUMER REPORTING AGENCY, THE STUDENT LOAN SERVICER SHALL ACCURATELY
27 REPORT A STUDENT LOAN BORROWER'S PAYMENT PERFORMANCE TO AT LEAST ONE
28 CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS
29 ON A NATIONWIDE BASIS AS DEFINED IN 15 UNITED STATES CODE SECTION
30 1681a(p), ON ACCEPTANCE AS A DATA FURNISHER BY THAT CONSUMER REPORTING
31 AGENCY.

32 2. A STUDENT LOAN SERVICER SHALL INQUIRE OF A STUDENT LOAN BORROWER
33 HOW TO APPLY THE STUDENT LOAN BORROWER'S NONCONFORMING PAYMENT. A STUDENT
34 LOAN BORROWER'S DIRECTION ON HOW TO APPLY A NONCONFORMING PAYMENT REMAINS
35 IN EFFECT FOR ANY FUTURE NONCONFORMING PAYMENT DURING THE TERM OF A
36 STUDENT EDUCATION LOAN UNTIL THE STUDENT LOAN BORROWER PROVIDES DIFFERENT
37 DIRECTIONS. FOR PURPOSES OF THIS PARAGRAPH, "NONCONFORMING PAYMENT" MEANS
38 A PAYMENT THAT IS EITHER MORE OR LESS THAN THE STUDENT LOAN BORROWER'S
39 REQUIRED STUDENT EDUCATION LOAN PAYMENT.

40 3. IF THE SALE, ASSIGNMENT OR OTHER TRANSFER OF THE SERVICING OF A
41 STUDENT EDUCATION LOAN RESULTS IN A CHANGE IN THE IDENTITY OF THE PERSON
42 TO WHOM THE STUDENT LOAN BORROWER IS REQUIRED TO SEND SUBSEQUENT PAYMENTS
43 OR DIRECT ANY COMMUNICATIONS CONCERNING THE STUDENT EDUCATION LOAN, A
44 STUDENT LOAN SERVICER, WITHIN FORTY-FIVE DAYS AFTER THE SALE, ASSIGNMENT
45 OR OTHER TRANSFER, SHALL TRANSFER ALL INFORMATION REGARDING THE STUDENT

1 LOAN BORROWER, THE STUDENT LOAN BORROWER'S ACCOUNT AND THE STUDENT LOAN
2 BORROWER'S STUDENT EDUCATION LOAN, INCLUDING THE STUDENT LOAN BORROWER'S
3 REPAYMENT STATUS AND ANY STUDENT LOAN BORROWER BENEFITS ASSOCIATED WITH
4 THE STUDENT LOAN BORROWER'S STUDENT EDUCATION LOAN, TO THE NEW STUDENT
5 LOAN SERVICER WHO IS SERVICING THE STUDENT LOAN BORROWER'S STUDENT
6 EDUCATION LOAN.

7 4. A STUDENT LOAN SERVICER SHALL ADOPT POLICIES TO VERIFY THAT THE
8 STUDENT LOAN SERVICER HAS RECEIVED ALL INFORMATION REGARDING A STUDENT
9 LOAN BORROWER, THE STUDENT LOAN BORROWER'S ACCOUNT AND THE STUDENT
10 EDUCATION LOAN BORROWER'S STUDENT LOAN, INCLUDING THE STUDENT LOAN
11 BORROWER'S REPAYMENT STATUS AND ANY STUDENT LOAN BORROWER BENEFITS
12 ASSOCIATED WITH THE STUDENT EDUCATION LOAN BORROWER'S STUDENT EDUCATION
13 LOAN WHEN THE STUDENT LOAN SERVICER OBTAINS THE RIGHT TO SERVICE THE
14 STUDENT EDUCATION LOAN.

15 5. IF A STUDENT LOAN SERVICER SELLS, ASSIGNS OR OTHERWISE TRANSFERS
16 THE SERVICING OF A STUDENT EDUCATION LOAN TO A NEW STUDENT LOAN SERVICER,
17 THE SALE, ASSIGNMENT OR OTHER TRANSFER SHALL BE COMPLETED AT LEAST SEVEN
18 DAYS BEFORE THE STUDENT LOAN BORROWER'S NEXT PAYMENT IS DUE.

19 6. A STUDENT LOAN SERVICER THAT SELLS, ASSIGNS OR OTHERWISE
20 TRANSFERS THE SERVICING OF A STUDENT EDUCATION LOAN SHALL REQUIRE AS A
21 CONDITION OF THE SALE, ASSIGNMENT OR OTHER TRANSFER THAT THE NEW STUDENT
22 LOAN SERVICER HONOR ALL STUDENT LOAN BORROWER BENEFITS ORIGINALLY
23 REPRESENTED AS BEING AVAILABLE TO A STUDENT LOAN BORROWER DURING THE
24 REPAYMENT OF THE STUDENT EDUCATION LOAN AND THE POSSIBILITY OF THOSE
25 BENEFITS, INCLUDING ANY BENEFITS THAT WERE REPRESENTED AS BEING AVAILABLE
26 BUT FOR WHICH THE STUDENT LOAN BORROWER HAS NOT YET QUALIFIED.

27 7. A STUDENT LOAN SERVICER THAT OBTAINS THE RIGHT TO SERVICE A
28 STUDENT EDUCATION LOAN SHALL HONOR ALL STUDENT LOAN BORROWER BENEFITS
29 ORIGINALLY REPRESENTED AS BEING AVAILABLE TO A STUDENT LOAN BORROWER
30 DURING THE REPAYMENT OF THE STUDENT EDUCATION LOAN AND THE POSSIBILITY OF
31 THOSE BENEFITS, INCLUDING ANY BENEFITS THAT WERE REPRESENTED AS BEING
32 AVAILABLE BUT FOR WHICH THE STUDENT LOAN BORROWER HAS NOT YET QUALIFIED.

33 8. A STUDENT LOAN SERVICER SHALL RESPOND WITHIN THIRTY DAYS AFTER
34 RECEIVING A WRITTEN INQUIRY FROM A STUDENT LOAN BORROWER OR A STUDENT LOAN
35 BORROWER'S AUTHORIZED REPRESENTATIVE.

36 6-1810. Oversight and authority

37 A. IN CONSIDERING AND INVESTIGATING AN APPLICATION UNDER THIS
38 CHAPTER, THE DEPARTMENT MAY USE ALL APPROPRIATE MEANS OF INVESTIGATION AND
39 DISCOVERY THAT ARE AVAILABLE PURSUANT TO THIS TITLE.

40 B. THE DEPUTY DIRECTOR SHALL CONTROL ACCESS TO ANY DOCUMENTS AND
41 RECORDS OF THE STUDENT LOAN SERVICER OR PERSON UNDER EXAMINATION OR
42 INVESTIGATION AND TAKE POSSESSION OF THE DOCUMENTS AND RECORDS OR PLACE A
43 PERSON IN EXCLUSIVE CHARGE OF THE DOCUMENTS AND RECORDS IN THE PLACE WHERE
44 THE DOCUMENTS AND RECORDS ARE USUALLY KEPT. REMOVING OR ATTEMPTING TO
45 REMOVE ANY OF THE DOCUMENTS AND RECORDS DURING THE CONTROL PERIOD IS

1 PROHIBITED, EXCEPT BY COURT ORDER OR WITH THE DEPUTY DIRECTOR'S
2 CONSENT. THE STUDENT LOAN SERVICER OR OWNER OF THE DOCUMENTS AND RECORDS
3 MUST HAVE ACCESS TO THE DOCUMENTS AND RECORDS AS NEEDED TO CONDUCT ITS
4 ORDINARY BUSINESS, UNLESS THE DEPUTY DIRECTOR HAS REASON TO BELIEVE THERE
5 IS A RISK THAT THE DOCUMENTS OR RECORDS WILL BE ALTERED OR DESTROYED TO
6 CONCEAL A VIOLATION.

7 C. A STUDENT LOAN SERVICER OR PERSON SUBJECT TO INVESTIGATION OR
8 EXAMINATION UNDER THIS CHAPTER MAY NOT KNOWINGLY WITHHOLD, ABSTRACT,
9 REMOVE, MUTILATE, DESTROY OR HIDE ANY BOOKS, RECORDS, COMPUTER RECORDS OR
10 OTHER INFORMATION.

11 6-1811. Notice; hearing; violation; penalties

12 A. AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, THE DEPUTY
13 DIRECTOR SHALL SUSPEND, REVOKE OR REFUSE TO RENEW ANY STUDENT LOAN
14 SERVICER LICENSE, OR TAKE ANY OTHER ACTION, FOR ANY VIOLATION OR ANY
15 REASON THAT WOULD BE SUFFICIENT GROUNDS FOR DENIAL OF A LICENSE
16 APPLICATION. IF THE LICENSE IS SURRENDERED, REVOKED OR SUSPENDED BEFORE
17 IT EXPIRES, THE DEPUTY DIRECTOR SHALL NOT REFUND ANY PORTION OF THE
18 LICENSE FEE.

19 B. THE DEPUTY DIRECTOR MAY TAKE ANY ACTION ALLOWED UNDER THIS TITLE
20 IF THE DEPUTY DIRECTOR DETERMINES THAT A PERSON VIOLATED, IS VIOLATING OR
21 IS ABOUT TO VIOLATE THIS CHAPTER OR A STUDENT LOAN SERVICER OR ANY OWNER,
22 DIRECTOR, OFFICER, MEMBER, PARTNER, SHAREHOLDER, TRUSTEE, EMPLOYEE OR
23 AGENT OF THE STUDENT LOAN SERVICER HAS COMMITTED FRAUD, ENGAGED IN
24 DISHONEST ACTIVITIES OR MADE ANY MISREPRESENTATION.

25 6-1812. Violation; unlawful practice; civil penalty

26 A. AN ACT OR PRACTICE IN VIOLATION OF THIS CHAPTER IS AN UNLAWFUL
27 PRACTICE UNDER SECTION 44-1522 AND SUBJECT TO ENFORCEMENT THROUGH PRIVATE
28 ACTION AND PROSECUTION BY THE ATTORNEY GENERAL. THE ATTORNEY GENERAL MAY
29 INVESTIGATE AND TAKE APPROPRIATE ACTION AS PRESCRIBED BY TITLE 44, CHAPTER
30 10, ARTICLE 7.

31 B. A PERSON WHO VIOLATES THIS CHAPTER IS SUBJECT TO A CIVIL PENALTY
32 OF UP TO \$100,000 PER VIOLATION AND AN ORDER TO MAKE RESTITUTION.

33 6-1813. Noncompliance; damages; attorney fees

34 A. A STUDENT LOAN SERVICER THAT WILFULLY FAILS TO COMPLY WITH THIS
35 CHAPTER WITH RESPECT TO ANY STUDENT LOAN BORROWER IS LIABLE TO THAT
36 STUDENT LOAN BORROWER IN AN AMOUNT EQUAL TO THE SUM OF ALL OF THE
37 FOLLOWING:

38 1. ANY ACTUAL DAMAGES SUSTAINED BY THE STUDENT LOAN BORROWER AS A
39 RESULT OF THE FAILURE.

40 2. A MONETARY AWARD EQUAL TO THREE TIMES THE TOTAL AMOUNT COLLECTED
41 FROM THE STUDENT LOAN BORROWER, AS ORDERED BY THE DEPUTY DIRECTOR.

42 3. AN AMOUNT OF PUNITIVE DAMAGES AS DETERMINED BY THE COURT.

43 4. IN THE CASE OF ANY SUCCESSFUL ACTION TO ENFORCE ANY LIABILITY
44 UNDER THIS SECTION, THE COSTS OF THE ACTION TOGETHER WITH REASONABLE
45 ATTORNEY FEES AS DETERMINED BY THE COURT.

1 B. A STUDENT LOAN SERVICER THAT IS NEGLIGENT IN FAILING TO COMPLY
2 WITH ANY REQUIREMENT IMPOSED UNDER THIS CHAPTER WITH RESPECT TO ANY
3 STUDENT LOAN BORROWER IS LIABLE TO THAT STUDENT LOAN BORROWER IN AN AMOUNT
4 EQUAL TO THE SUM OF BOTH OF THE FOLLOWING:

5 1. ANY ACTUAL DAMAGES SUSTAINED BY THE STUDENT LOAN BORROWER AS A
6 RESULT OF THE FAILURE.

7 2. IN THE CASE OF A SUCCESSFUL ACTION TO ENFORCE ANY LIABILITY
8 UNDER THIS SECTION, THE COST OF THE ACTION TOGETHER WITH REASONABLE
9 ATTORNEY FEES AS DETERMINED BY THE COURT.

10 Sec. 2. Requirements for enactment; two-thirds vote

11 Pursuant to article IX, section 22, Constitution of Arizona, this
12 act is effective only on the affirmative vote of at least two-thirds of
13 the members of each house of the legislature and is effective immediately
14 on the signature of the governor or, if the governor vetoes this act, on
15 the subsequent affirmative vote of at least three-fourths of the members
16 of each house of the legislature.