

Subject Student loan advocate

Authors Stephenson and others

Analyst Larie Ann Pampuch

Date March 6, 2020

Overview

This bill creates a designated student loan advocate within the Department of Commerce. The advocate is tasked with resolving complaints from borrowers against student loan servicers and educating the public regarding student loans. This bill also requires student loan servicers to be licensed by the Department of Commerce, follow certain procedures relating to the servicing of loans, and outlines misconduct. This bill allows the commissioner to examine student loan servicers, revoke licenses, and issue civil penalties.

Summary

Section	Description
---------	-------------

- | | |
|---|---|
| 1 | Student loan servicers.
States that data under chapter 58B are governed by section 58B.11. |
| 2 | [58B.01] Definitions.
Provides definitions for borrower, financial institution, student loan, and student loan servicer. |
| 3 | [58B.02] Student loan advocate.
Subd. 1. Designation of student loan advocate. Requires the attorney general to designate a student loan advocate within the Office of the Attorney General to provide assistance to borrowers.
Subd. 2. Duties. Requires the student loan advocate to handle complaints from borrowers, compile and analyze data on borrower complaints, provide information to borrowers and the public, monitor new laws relating to student loans, review student loan histories, increase awareness of the advocate position, and take other necessary actions to fulfill their duties. |

Section Description

Subd. 3. Student loan education course. Requires the student loan advocate to establish and maintain a borrower education course that includes certain information.

Subd. 4. Reporting. Requires the advocate to report to the legislative committees with jurisdiction of commerce and higher education by January 15 of each odd-numbered year.

4 [58B.03] Licensing of student loan servicers.

Subd. 1. License required. Requires student loan servicers to obtain a license from the commissioner.

Subd. 2. Exempt persons. Exempts financial institutions, an agency, instrumentality, or political subdivision of this state that offers or services student loans, the University of Minnesota, and certain other persons from the requirements of this chapter.

Subd. 3. Application for licensure. Requires an application for a student loan servicer license to be filed with the commissioner, contain certain financial and legal information, and such fees as the commissioner establishes. Allows the commissioner to conduct a state and national criminal history check for each applicant and persons in control of an applicant.

Subd. 4. Issuance of license. Allows the commissioner to issue a license if the applicant meets certain financial and business requirements.

Subd. 5. Notification of change in status. Requires an applicant or student loan servicer to notify the commissioner of any change from their initial or most recent renewal application.

Subd. 6. Terms of license. Provides that a license expires on December 31 and is renewable on January 1.

Subd. 7. Exemption from application. (a) Provides a person servicing student loans in this state pursuant to a contract awarded by the United States Secretary of Education an exemption from the requirements of subdivision 3.

(b) Requires the commissioner to issue a license to a person exempt under paragraph (a).

Subd. 8. Notice. (a) Requires a person issued a license under subdivision 7 to notify the commissioner if their contract with the United States Secretary of Education expires, is revoked, or terminated.

Section	Description
	(b) Provides a person issued a license under subdivision 7 with 30 days to complete the requirements of subdivision 3 if their contract with the United States Secretary of Education expires, is revoked, or terminated.
5	<p>[58B.04] Licensing multiple places of business.</p> <p>(a) Requires a student loan servicer to service loans under one name and one location. Requires the servicer to notify the commissioner if their place of business changes. Allows the commissioner to issue a servicer more than one license.</p> <p>(b) Provides that a license is not transferable or assignable.</p>
6	<p>[58B.05] License renewal.</p> <p>Subd. 1. Term. Provides that licenses are renewable on January 1.</p> <p>Subd. 2. Timely renewal. (a) Provides the requirements for filing a timely license renewal.</p> <p>(b) Provides that a person who does not timely file a license renewal is unlicensed until a renewal license is issued by the commissioner.</p> <p>Subd. 3. Contents of renewal application. Requires certain information be submitted with the renewal application.</p> <p>Subd. 4. Cancellation. Allows a student loan servicer that no longer wants to be licensed to inform the commissioner and surrender the license. A servicer must submit a plan for the withdrawal from student loan servicing.</p> <p>Subd. 5. Renewal fees. Requires fees, as established by the commissioner, to be paid with a renewal application.</p>
7	<p>[58B.06] Duties of student loan servicers.</p> <p>Subd. 1. Response requirements. Requires a student loan servicer to acknowledge receipt of a written communication from a borrower in less than ten days and provide information to the borrower regarding how/if the servicer can correct the borrower's issue in less than 30 days.</p> <p>Subd. 2. Overpayments. Requires a student loan servicer to apply overpayments as instructed by the borrower.</p> <p>Subd. 3. Partial payments. Requires a student loan servicer to apply partial payments in a way that minimizes late fees and the negative impact on the borrower's credit history. Requires partial payments, where a borrower has</p>

Section **Description**

multiple loans, to be applied to satisfy as many individual loan payments as possible.

Subd. 4. Transfer of student loan. (a) Requires a student loan servicer that sells, assigns, or transfers servicing of a loan to require the new servicer to provide all benefits that were available to the borrower from the original servicer and transfer all information regarding the borrower to the new servicer.

(b) Requires a student loan servicer to complete the transfer of borrower information in less than 45 days from the date of the sale, assignment, or transfer.

(c) Requires a sale, assignment, or transfer of servicing to be completed no less than seven days from the date the next payment is due on the student loan.

(d) Requires a new student loan servicer to adopt policies and procedures to verify the original servicer meets the requirements of paragraph (a).

Subd. 5. Income-driven. Requires a student loan servicer to evaluate a borrower for eligibility for an income-driven repayment program before placing a borrower in forbearance or default.

Subd. 6. Records. Requires a student loan servicer to maintain adequate records of a student loan for two years following the last payment on the student loan or the sale, assignment, or transfer of the student loan.

Effective date. This section is effective July 1, 2020, and applies to student loan contracts executed on or after that date.

8 **[58B.07] Prohibited conduct.**

Subd. 1. Misleading borrowers. Prohibits a student loan servicer from directly or indirectly attempting to mislead a borrower.

Subd. 2. Misrepresentation. Prohibits a student loan servicer from engaging in unfair or deceptive practices or misrepresenting or omitting any material information relating to servicing. This includes misrepresenting the amount, nature, or terms of fees, payments due, terms and conditions, or the borrower's obligation.

Subd. 3. Misapplication of payments. Prohibits a student loan servicer from knowingly or negligently misapplying payments.

Section Description

Subd. 4. Inaccurate information. Prohibits a student loan servicer from knowingly or negligently providing inaccurate information to a consumer reporting agency.

Subd. 5. Reporting of payment history. Requires a student loan servicer to report both favorable and unfavorable payment histories of a borrower to a consumer reporting agency at least annually, if the servicer regularly reports such information.

Subd. 6. Refusal to communicate with a borrower's representative. Prohibits a student loan borrower from refusing to communicate with a properly authorized borrower representative. A servicer may adopt reasonable verification procedures for representatives.

Subd. 7. False statements and omissions. Prohibits a student loan servicer from knowingly or negligently making any false statements or omissions of material fact in connection with an application, information, or reports filed with the commissioner or other government agency.

Subd. 8. Noncompliance with applicable law. Prohibits a student loan servicer from violating other laws, including those related to fraud, or coercive or dishonest practices.

Subd. 9. Failure to respond to advocate. Requires a student loan servicer to respond within 15 days of receipt of a communication from the student loan advocate. Allows an advocate to reasonably shorten the response time. Requires a student loan servicer to respond within 15 days of receipt of a consumer complaint from the advocate. A servicer can request an extension of up to 45 days from receipt if they explain why additional time is reasonable and necessary.

Subd. 10. Incorrect information regarding student loan forgiveness. Prohibits a student loan servicer from misrepresenting the availability of student loan forgiveness.

Subd. 11. Compliance with servicer duties. Requires a student loan servicer to comply with section 58B.06.

9 [58B.08] Examinations.

Provides the commissioner with the same powers to examine student loan servicers that the commissioner has under section 46.04.

Section	Description
10	<p>[58B.09] Denial, suspension, revocation of licenses.</p> <p>Subd. 1. Powers of commissioner. Allows the commissioner to take action against a licensee, including barring a person from servicing loans, denying, suspending, or revoking a license, censuring a servicer, revoking an exemption, and imposing civil penalties. Requires the commissioner to ensure that before an action is taken the order is in the public interest and the servicer, applicant, person in control, employee, or agent has violated a requirement of this chapter, a standard of conduct, or engaged in any of the listed prohibited behaviors.</p> <p>Subd. 2. Orders of the commissioner. Requires the commissioner, to begin a proceeding, to issue an order requiring the subject to show cause why an action should not be taken. Provides requirements relating to the order, suspension, and hearing.</p> <p>Subd. 3. Actions against lapsed license. Allows the commissioner to institute a proceeding within two years of a license lapsing, being surrendered, withdrawn, or terminated and impose a civil penalty under this section or section 45.024, subdivision 6.</p>
11	<p>[58B.10] Attorney general enforcement.</p> <p>Provides that a student loan servicer that violates section 58B.07, subdivisions 1 to 4 or 7, is deemed in violation of section 325F.69, subdivision 1, and the provisions of section 8.31 apply.</p>
12	<p>[58B.11] Data practices.</p> <p>Subd. 1. Classification of data. (a) Classifies data held by the attorney general under this chapter as governed by section 13.65.</p> <p>(b) Classifies data held by the Department of Commerce under this chapter as governed by section 46.07.</p> <p>Subd. 2. Data sharing. Allows not public data under this chapter to be shared with certain federal and state agencies.</p>
13	<p>Appropriation.</p> <p>(a) \$249,000 in 2021 is appropriated from the general fund to the commissioner of commerce to administer the requirements of Minnesota Statutes, chapter 58B.</p> <p>(b) \$328,000 in 2021 is appropriated from the general fund to the attorney general to administer the requirements of Minnesota Statutes, chapter 58B.</p>

Section	Description
14	Effective date. Sections 1 to 6 and 8 to 13 are effective July 1, 2020.



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155