

**§14-108. Student loan servicers**

**1. Definition.** As used in this section, "nonconforming payment" means a payment on a student education loan of a student loan borrower that is different than the required payment. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

**2. Requirements.** Except as otherwise provided in federal law, a federal student education loan agreement or a contract between the Federal Government and a student loan servicer, a student loan servicer shall comply with the requirements of this subsection.

A. Upon receipt of a written inquiry from a student loan borrower or the representative of a student loan borrower, a student loan servicer shall respond by:

- (1) Acknowledging receipt of the written inquiry within 10 days; and
- (2) Providing, within 30 days after receiving the inquiry, information relating to the inquiry and, if applicable, the action the student loan servicer will take to correct the student loan borrower's account or an explanation of the student loan servicer's position that the borrower's account is correct. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

B. A student loan servicer shall inquire of a student loan borrower how to apply an overpayment or prepayment to a student loan. A student loan borrower's direction on how to apply an overpayment or prepayment to a student loan must stay in effect for any future overpayments or prepayments during the term of a student loan until the borrower provides different directions. For purposes of this paragraph, "overpayment" or "prepayment" means a payment on a student loan in excess of the monthly amount due from a borrower on a student loan. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

C. A student loan servicer shall apply a partial payment or underpayment in a manner that minimizes late fees and negative credit reporting. When loans on a student loan borrower's account have an equal stage of delinquency, a student loan servicer shall apply a partial payment or underpayment to satisfy as many individual loan payments as possible on a borrower's account. For purposes of this paragraph, "partial payment" or "underpayment" means a payment on a student loan account that contains multiple individual loans in an amount less than the amount necessary to satisfy the outstanding payment due on all loans in the student loan account. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

D. In the event of the sale, assignment or other transfer of the servicing of a student education loan that results in a change in the identity of the person to whom a student loan borrower is required to send payments or direct any communication concerning the student education loan:

- (1) As a condition of the sale, assignment or transfer, the student loan servicer shall require the new student loan servicer to honor all benefits originally represented as available to the student loan borrower during the repayment of the student education loan and preserve the availability of such benefits, including any benefits for which the student loan borrower has not yet qualified;
- (2) Within 45 days after the sale, assignment or transfer, the student loan servicer shall transfer to the new student loan servicer all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower, including the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower; and
- (3) The sale, assignment or transfer of the servicing of the student education loan must be completed at least 7 days before the next payment on the loan is due. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

E. A student loan servicer that obtains the right to service a student education loan shall adopt policies and procedures to verify that the student loan servicer has received all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower, including, but not limited to, the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

F. A student loan servicer shall evaluate a student loan borrower for a repayment program based on income prior to placing the borrower in forbearance or default, if a repayment program based on income is available to the borrower. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

**3. Prohibited acts.** A student loan servicer may not:

A. Directly or indirectly employ a scheme, device or artifice to defraud or mislead student loan borrowers; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

B. Engage in an unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

C. Obtain property by fraud or misrepresentation; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF); PL 2019, c. 431, §4 (AFF).]

D. Misapply student education loan payments to the outstanding balance of a student education loan; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

E. Provide inaccurate information to a credit bureau, thereby harming the determination of a student loan borrower's creditworthiness; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

F. Fail to report both the favorable and unfavorable payment history of a student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to such a credit bureau; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

G. Refuse to communicate with an authorized representative of a student loan borrower who provides a written authorization signed by the student loan borrower, except that the student loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

H. Make any false statement or omit a material fact in connection with information or reports filed with a governmental agency or in connection with an investigation conducted by the superintendent or another governmental agency; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

I. Fail to respond within 15 days to communication from the student loan ombudsman, or within a shorter reasonable time as the student loan ombudsman may request in the communication; or [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

J. Fail to respond within 15 days to a student loan borrower complaint submitted to the servicer by the student loan ombudsman. If necessary, a student loan servicer may request additional time, up to 45 days, as long as the request is accompanied by an explanation of why additional time is reasonable and necessary. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

**4. Penalties.** A violation of this section is an unfair trade practice under the Maine Unfair Trade Practices Act and is subject to the enforcement and penalty provisions contained in that Act.

A. A student loan servicer that fails to comply with any requirement imposed under this section with respect to a student loan borrower is liable in an amount equal to the sum of:

- (1) Any actual damages sustained by the borrower as result of the failure;
- (2) A monetary award equal to 3 times the total amount the student loan servicer collected from the borrower;
- (3) Punitive damages as the court may allow; and
- (4) In the case of any successful action by the borrower to enforce the liability set out in this subsection, the costs of the action, together with reasonable attorney's fees as determined by the court. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

B. The remedies provided in this subsection are not intended to be the exclusive remedies available to a student loan borrower, nor must the borrower exhaust any administrative remedies provided under this subsection or any other applicable law before proceeding under this subsection. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]  
[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

#### SECTION HISTORY

PL 2019, c. 431, §2 (NEW). PL 2019, c. 431, §4 (AFF).

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