A BILL FOR AN ACT

CONCERNING THE REGULATION OF STUDENT EDUCATION LOAN SERVICERS.

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 requires an entity that services a student education loan to be licensed by the administrator of the "Uniform Consumer Credit Code". "Servicing" means receiving a scheduled periodic payment from a student loan borrower, applying the payments of principal and interest with respect to the amounts received from a student loan borrower, and similar administrative services. The bill also creates a student loan ombudsperson
to provide timely assistance to student loan borrowers.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby:

   (a) Finds that:

      (I) Student loan debt has reached a crisis point. More than 44,000,000 individuals in the United States owe some amount of student loan debt. Total student loan debt in the United States currently exceeds $1.48 trillion, surpassing both the amount of credit card debt and car loans. With tuition and other college costs on the rise, student loan debt continues to rise, with no clear reduction in sight.

      (II) According to the Institute for College Access and Success, 52 percent of Colorado's students graduate with student loan debt, with an average balance of $26,530. There are approximately 761,000 student loan borrowers in Colorado, and the total student loan debt outstanding for Coloradans is approximately $26 billion.

      (III) Student loan debt is a hindrance to the state's economy, preventing borrowers from achieving financial independence, buying property, starting businesses, and otherwise investing in Colorado's economy;

   (b) Determines that:

      (I) Student loan servicers administer student loans, serving as a critical link between borrowers and lenders in managing accounts, processing payments, and communicating directly with borrowers. Despite this critical relationship, according to the federal consumer financial protection bureau (CFPB), there are no consistent, market-wide
federal standards for student loan servicing.

(II) The CFPB released a report in September of 2015 that found that student loan borrowers encounter servicers that discourage borrower-friendly alternative payment plans, fail to respond to questions and payment processing errors, and fail to provide sufficient information to borrowers regarding payments, benefits, interest rates, and other charges; and

(III) A report released in March of 2017 found that Coloradans complained to the CFPB 124 times about their student loan servicers in 2017 alone, and that nationally, complaints against servicers had increased by 429 percent compared to data collected in 2016; and

(c) Declares that the general assembly intends by the enactment of this act to promote all of the following:

(I) Meaningful access to federal affordable repayment and loan forgiveness benefits;

(II) Reliable information about student loans and loan repayment options; and

(III) Quality customer service and fair treatment.

SECTION 2. In Colorado Revised Statutes, add 5-2-311 as follows:

5-2-311. Student loan servicers - definitions - report - fund - rules - repeal. (1) Definitions. As used in this section and with regard to student education loans, student loan servicers, and student loan borrowers only:

(a) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(b) "Servicing" means:

(I) Receiving a scheduled periodic payment from a student loan borrower pursuant to the terms of a student education loan;

(II) Applying the payments of principal, interest, and such other payments with respect to the amounts received from a student loan borrower as may be required pursuant to the terms of a student education loan; and

(III) Performing other administrative services with respect to a student education loan.

(c) "Student education loan" means a consumer credit transaction that is not, but for this section, a consumer credit transaction for which a license is required pursuant to section 5-2-301, and that is used to finance education or other school-related expenses; except that, for purposes of implementing this section in connection with other provisions of this part 3 only, a consumer credit transaction includes those transactions in which the principal or the amount financed exceeds seventy-five thousand dollars.

(d) "Student loan borrower" means:

(I) an individual who has received or agreed to pay a student education loan; or

(II) an individual who shares responsibility with the individual specified in subsection (1)(d)(I) of this section for repaying the student education loan.

(e) "Student loan servicer" means a person, wherever located, responsible for the servicing of a student education loan.
LOAN TO A STUDENT LOAN BORROWER.

(f) "SUPERVISED LENDER", FOR THE PURPOSES OF IMPLEMENTING THIS SECTION IN CONNECTION WITH OTHER PROVISIONS OF THIS PART 3 ONLY AND WITH REGARD TO THE SERVICING OF A STUDENT EDUCATION LOAN BY A STUDENT LOAN SERVICER ONLY, INCLUDES A STUDENT LOAN SERVICER.

(2) Student loan ombudsperson. The administrator shall, using licensing and investigation fees collected pursuant to subsection (5) of this section, support, maintain, and designate a student loan ombudsperson to provide timely assistance to student loan borrowers. The student loan ombudsperson, in consultation with the administrator, shall:

(a) Complaints. Receive, review, and attempt to resolve complaints from student loan borrowers, including in collaboration with institutions of higher education, student loan servicers, and any other participants in student loan lending, including originators servicing their own student education loans;

(b) Data. Compile and analyze data on student loan borrower complaints as described in subsection (2)(a) of this section;

(c) Assistance. Assist student loan borrowers in understanding their rights and responsibilities under the terms of student education loans;

(d) Information. Provide information to the public, agencies, legislators, and others regarding the problems and concerns of student loan borrowers and make recommendations.
FOR RESOLVING THOSE PROBLEMS AND CONCERNS;

(c) **Laws, rules, and policies.** Analyze and monitor the development and implementation of federal, state, and local laws, ordinances, regulations, rules, and policies relating to student loan borrowers and recommend any necessary changes;

(f) **Student loan history.** Review the complete student education loan history for a student loan borrower who provides written consent for the review;

(g) **Availability.** Disseminate information concerning the availability of the student loan ombudsperson to assist student loan borrowers and potential student loan borrowers, including disseminating the information to institutions of higher education, student loan servicers, and any other participants in student education loan lending with any servicing concerns;

(h) **Education course.** Establish and maintain a student loan borrower education course within existing resources that includes educational presentations and materials regarding student education loans. The course must include, but is not limited to, key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness, and disclosure requirements.

(i) **Other actions.** Take any other actions necessary to fulfill the duties of the student loan ombudsperson as set forth in this section.

(3) (a) **Annual report.** The administrator shall submit a report by January 1 of each year to the joint standing committees of the general assembly having jurisdiction over
EDUCATION, INSURANCE, AND FINANCIAL SERVICES MATTERS. THE REPORT
MUST INCLUDE:

(I) Implementation. A DESCRIPTION OF ACTIONS TAKEN WITH
RESPECT TO THE IMPLEMENTATION OF THIS SECTION;

(II) Effectiveness. AN ASSESSMENT OF THE OVERALL
EFFECTIVENESS OF THE STUDENT LOAN OMBUDSPERSON; AND

(III) Additional steps. RECOMMENDATIONS REGARDING
ADDITIONAL STEPS FOR THE ADMINISTRATOR TO GAIN REGULATORY
CONTROL OVER LICENSING AND ENFORCEMENT WITH RESPECT TO STUDENT
LOAN SERVICERS.

(b) This subsection (3) is repealed, effective September 1, 2023.

(4) Student loan ombudsperson and student loan servicer
licensing fund. (a) The student loan ombudsperson and student
loan servicer licensing fund, referred to in this section as the
"Fund", is hereby created in the state treasury. The fund
consists of licensing and investigation fees collected pursuant
to subsection (5) of this section, any other money required by
law to be deposited in the fund, and any other money that the
general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and
income derived from the deposit and investment of money in the
fund to the fund.

(c) Subject to annual appropriation by the general
assembly, the administrator shall expend money held in the fund
to administer this section.

(5) Application. (a) A person seeking to act within this
STATE AS A STUDENT LOAN SERVICER MUST APPLY TO THE ADMINISTRATOR
FOR AN INITIAL LICENSE IN THE FORM THE ADMINISTRATOR PRESCRIBES.

THE APPLICATION MUST BE ACCOMPANIED BY:

(I) A FINANCIAL STATEMENT PREPARED BY A CERTIFIED PUBLIC
ACCOUNTANT OR A PUBLIC ACCOUNTANT, A GENERAL PARTNER IF THE
APPLICANT IS A PARTNERSHIP, A CORPORATE OFFICER IF THE APPLICANT IS
A CORPORATION, OR A MEMBER DULY AUTHORIZED TO EXECUTE FINANCIAL
STATEMENTS IF THE APPLICANT IS A LIMITED LIABILITY COMPANY OR
ASSOCIATION;

(II) INFORMATION REGARDING THE HISTORY OF CRIMINAL
CONVICTIONS OF THE FOLLOWING:

(A) THE APPLICANT;

(B) PARTNERS OF THE APPLICANT, IF THE APPLICANT IS A
PARTNERSHIP;

(C) MEMBERS OF THE APPLICANT, IF THE APPLICANT IS A LIMITED
LIABILITY COMPANY OR ASSOCIATION; AND

(D) OFFICERS, DIRECTORS, AND PRINCIPAL EMPLOYEES OF THE
APPLICANT, IF THE APPLICANT IS A CORPORATION;

(III) A NONREFUNDABLE LICENSE FEE OF ONE THOUSAND DOLLARS;

AND

(IV) A NONREFUNDABLE INVESTIGATION FEE ESTABLISHED BY THE
ADMINISTRATOR.

(b) THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION
(5)(a)(II) OF THIS SECTION MUST BE SUFFICIENT, AS DETERMINED BY THE
ADMINISTRATOR, TO MAKE THE FINDINGS UNDER SUBSECTION (6) OF THIS
SECTION.

(6) Investigation of applicant. (a) UPON THE FILING OF AN
APPLICATION FOR AN INITIAL LICENSE AND THE PAYMENT OF THE FEES FOR LICENSING AND INVESTIGATION PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE ADMINISTRATOR SHALL INVESTIGATE THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, CHARACTER, AND GENERAL FITNESS OF THE APPLICANT.

(b) THE ADMINISTRATOR MAY ISSUE A LICENSE PURSUANT TO THIS SECTION IF THE ADMINISTRATOR FINDS THAT:

(I) THE APPLICANT'S FINANCIAL CONDITION IS SOUND;

(II) THE APPLICANT'S BUSINESS WILL BE CONDUCTED HONESTLY, FAIRLY, EQUITABLY, CAREFULLY, AND EFFICIENTLY WITHIN THE PURPOSES AND INTENT OF THIS CODE AND IN A MANNER COMMANDING THE CONFIDENCE AND TRUST OF THE COMMUNITY;

(III) IF THE APPLICANT IS:

(A) AN INDIVIDUAL, THE INDIVIDUAL IS IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD CHARACTER;

(B) A PARTNERSHIP, EACH PARTNER IS IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD CHARACTER;

(C) A LIMITED LIABILITY COMPANY OR ASSOCIATION, EACH MEMBER IS IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD CHARACTER; OR

(D) A CORPORATION, THE PRESIDENT, CHAIR OF THE EXECUTIVE COMMITTEE, SENIOR OFFICER RESPONSIBLE FOR THE CORPORATION'S BUSINESS, CHIEF FINANCIAL OFFICER OR ANY OTHER PERSON WHO PERFORMS SIMILAR FUNCTIONS AS DETERMINED BY THE ADMINISTRATOR, EACH DIRECTOR, EACH TRUSTEE, AND EACH SHAREHOLDER OWNING TEN PERCENT OR MORE OF EACH CLASS OF THE SECURITIES OF THE CORPORATION ARE IN ALL RESPECTS PROPERLY QUALIFIED AND OF GOOD
CHARACTER;

(IV) No person acting on behalf of the applicant knowingly has made an incorrect statement of a material fact in the application or in any report or statement made pursuant to this code; and

(V) The applicant has met any other requirements as determined by the administrator.

(7) License expiration. A license issued pursuant to this section expires each January 31, unless renewed or earlier surrendered, suspended, or revoked pursuant to this code. No later than fifteen days after a licensee ceases to engage in the business of servicing in this state for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy, or voluntary dissolution, the licensee shall provide written notice of surrender to the administrator and shall surrender to the administrator its license for each location in which the licensee has ceased to engage in servicing. The written notice of surrender must identify the location where the records of the licensee will be stored and the name, address, and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative actions undertaken by the administrator to revoke or suspend a license, assess a civil penalty, order restitution, or exercise any other authority provided to the administrator.
(8) **License renewal.** A license issued pursuant to this section may be renewed for the ensuing twelve-month period upon the filing of an application containing all required documents and fees as provided in this section. A renewal application must be filed on or before January 31 of the year in which the license expires. A renewal application filed with the administrator after January 31 that is accompanied by a one-hundred-dollar late fee is deemed to be timely and sufficient. If an application for a renewal license has been filed with the administrator on or before the date the license expires, the license sought to be renewed continues in effect until the issuance by the administrator of the renewal license applied for or until the administrator has notified the licensee in writing of the administrator's refusal to issue the renewal license together with the grounds upon which the refusal is based. The administrator may refuse to issue a renewal license on any ground on which the administrator might refuse to issue an initial license.

(9) **Dishonored check.** If a check filed with the administrator to pay a license, investigation, or renewal fee under this section is dishonored, the administrator shall automatically suspend the license or the renewal license that has been issued but is not yet effective. The administrator shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on the actions in accordance with article 6 of this title 5.
(10) **Update application information.** An applicant or licensee under this section shall notify the administrator, in writing, of any change in the information provided in its initial application for a license or its most recent renewal application for a license, as applicable, not later than ten business days after the occurrence of the event that results in the change.

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

(12) **Change of license notification.** A licensee under this section shall not act within this state as a student loan servicer under any name or at any place of business other than those named in the license. Any change of location of a place of business of a licensee requires prior written notice to the administrator. Not more than one place of business may be maintained under the same license, but the administrator may issue more than one license to a licensee that complies with this code as to each license. A license is not transferable or assignable.
(13) **Records retention - records request.** A student loan servicer shall maintain adequate records of each student education loan transaction for not less than two years following the final payment on the student education loan or the assignment of the student education loan, whichever occurs first, or except as otherwise required by federal law, a federal student education loan agreement, or a contract between the federal government and a licensee. Upon request by the administrator, a student loan servicer shall make the records available or shall send the records to the administrator by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the administrator. Upon a licensee’s request, the administrator may grant the licensee additional time to make the records available or to send the records to the administrator.

(14) **License suspension and revocation - refusal to renew.**

(a) The administrator may suspend, revoke, or refuse to renew a license issued pursuant to this section or take any other action in accordance with article 6 of this title 5 if the administrator finds one or more of the following:

(I) The licensee has violated any provision of this code or any rule or order lawfully adopted pursuant to and within the authority of this code; or

(II) Any fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have warranted a denial of the license.
(b) AN ABATEMENT OF THE LICENSE FEE MAY NOT BE MADE IF THE LICENSE IS SURRENDERED, REVOKED, OR SUSPENDED.

(15) Licensing of student loan servicers. (a) AN ENTITY SHALL NOT ACT AS A STUDENT LOAN SERVICER, DIRECTLY OR INDIRECTLY, WITHOUT FIRST OBTAINING A SUPERVISED LENDER LICENSE FROM THE ADMINISTRATOR PURSUANT TO THIS PART 3.

(b) ALL OF THE PROVISIONS OF THIS PART 3 THAT APPLY TO THE MAKING OF A SUPERVISED LOAN APPLY EQUALLY TO THE SERVICING OF A STUDENT EDUCATION LOAN BY A STUDENT LOAN SERVICER AS IF THE STUDENT LOAN SERVICER WERE A SUPERVISED LENDER SERVICING A SUPERVISED LOAN.

(16) Rules. THE ADMINISTRATOR SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION.

(17) Affirmative acts required of student loan servicers.

(a) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, FEDERAL STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND A STUDENT LOAN SERVICER, A STUDENT LOAN SERVICER SHALL TAKE THE ACTIONS SPECIFIED IN THIS SUBSECTION (17).

(b) A LICENSEE SHALL RESPOND TO A WRITTEN INQUIRY FROM A STUDENT LOAN BORROWER OR THE REPRESENTATIVE OF A STUDENT LOAN BORROWER WITHIN THIRTY DAYS AFTER RECEIVING THE INQUIRY.

(c) UPON RECEIPT OF A NONCONFORMING PAYMENT ON A STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER, A STUDENT LOAN SERVICER SHALL:

(I) ASK THE STUDENT LOAN BORROWER HOW THE STUDENT LOAN BORROWER PREFERS THE LICENSEE TO APPLY A NONCONFORMING PAYMENT;
(II) Note how the student loan borrower prefers the student loan servicer to apply a nonconforming payment;

(III) Apply the nonconforming payment in the manner preferred by the student loan borrower; and

(IV) Until the student loan borrower indicates otherwise, apply any future nonconforming payments in the same manner preferred by the student loan borrower under subsection (17)(c)(I) of this section.

(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, the following provisions apply:

(I) As a condition of a sale, an assignment, or any other transfer of the servicing of a student education loan, a student loan servicer shall require the new student loan servicer to honor all benefits originally represented as available to a student loan borrower during the repayment of the student education loan and preserve the availability of the benefits, including any benefits for which the student loan borrower has not yet qualified.

(II) A student loan servicer shall transfer to the new student loan servicer all records regarding the student loan borrower, the account of the student loan borrower, and the student education loan of the student loan borrower.

(III) The records required under subsection (17)(d)(II) of
THIS SECTION INCLUDE THE REPAYMENT STATUS OF THE STUDENT LOAN BORROWER AND ANY BENEFITS ASSOCIATED WITH THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

(IV) The student loan servicer shall complete the transfer of records required under subsection (17)(d)(II) of this section within forty-five days after the sale, assignment, or other transfer of the servicing of a student education loan.

(V) The sale, assignment, or other transfer of the servicing of a student loan shall be completed at least seven days before the next payment on the loan is due.

(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 records 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.

(18) **Prohibited acts of student loan servicers.** A student loan servicer shall not:

(a) directly or indirectly employ a scheme, device, or artifice to defraud or mislead student loan borrowers;

(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 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
STUDENT LOAN BORROWER'S OBLIGATIONS UNDER THE LOAN;

(c) Obtain property by fraud or misrepresentation;

(d) Misapply student education loan payments to the
outstanding balance of a student education loan;

(e) Provide inaccurate information to a credit bureau;

(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;

(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;

(h) Make any false statement or omit any material fact
in connection with information or reports filed with a
governmental agency or in connection with an investigation
conducted by the administrator or another governmental
agency; or

(i) Fail to evaluate a student loan borrower for an
income-based repayment program prior to placing the student
loan borrower in forbearance or default, if an income-based
repayment program is available to the student loan borrower.
(19) **Powers and duties of the administrator.** (a) The administrator has the authority to conduct investigations and examinations as follows:

(I) For purposes of initial licensing, license renewal, license suspension, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this code, the administrator may access, receive, and use any records or information belonging to a licensee or person under examination, including criminal, civil, and administrative history information; personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in section 603 (p) of the federal "Fair Credit Reporting Act", 15 U.S.C. Sec. 1681a, as amended; and any other records or information the administrator considers relevant to the inquiry or investigation regardless of the location, possession, control, or custody of the records or information.

(II) For the purposes of investigating violations or complaints arising under this code or for the purposes of examination, the administrator may review, investigate, or examine any licensee or person subject to this code as often as necessary in order to carry out the purposes of this code. The administrator may direct, subpoena, or order the attendance of and examine under oath any person whose testimony may be required about the student education loan or the business or subject matter of an examination or investigation and may direct, subpoena, or order the person to produce records the
ADMINISTRATOR CONSIDERS RELEVANT TO THE INQUIRY.

(III) IN MAKING AN EXAMINATION OR INVESTIGATION AUTHORIZED
BY THIS SECTION, THE ADMINISTRATOR MAY CONTROL ACCESS TO ANY
RECORDS OF THE LICENSEE OR PERSON UNDER EXAMINATION OR
INVESTIGATION. THE ADMINISTRATOR MAY TAKE POSSESSION OF THE
RECORDS OR PLACE A PERSON IN EXCLUSIVE CHARGE OF THE RECORDS IN
THE PLACE WHERE THEY ARE USUALLY KEPT.

(IV) DURING THE PERIOD OF CONTROL, A PERSON MAY NOT
REMOVE OR ATTEMPT TO REMOVE ANY OF THE RECORDS EXCEPT
PURSUANT TO A COURT ORDER OR WITH THE CONSENT OF THE
ADMINISTRATOR. UNLESS THE ADMINISTRATOR HAS REASONABLE
GROUNDS TO BELIEVE THE RECORDS OF THE LICENSEE OR PERSON HAVE
BEEN, OR ARE AT RISK OF BEING, ALTERED OR DESTROYED FOR PURPOSES
OF CONCEALING A VIOLATION OF THIS CODE, THE LICENSEE OR OWNER OF
THE RECORDS MAY HAVE ACCESS TO THE RECORDS AS NECESSARY TO
CONDUCT ITS ORDINARY BUSINESS AFFAIRS.

(b) IN ORDER TO CARRY OUT THE PURPOSES OF THIS SECTION, THE
ADMINISTRATOR MAY:

(I) RETAIN ATTORNEYS, ACCOUNTANTS, OR OTHER PROFESSIONALS
AND SPECIALISTS AS EXAMINERS, AUDITORS, OR INVESTIGATORS TO
CONDUCT OR ASSIST IN THE CONDUCT OF EXAMINATIONS OR
INVESTIGATIONS;

(II) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER
GOVERNMENT OFFICIALS OR REGULATORY ASSOCIATIONS IN ORDER TO
IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN BY SHARING
RESOURCES, STANDARDIZED OR UNIFORM METHODS OR PROCEDURES, AND
RECORDS OR INFORMATION OBTAINED UNDER THIS SECTION;
(III) Use, hire, contract for, or employ publicly or privately available analytical systems, methods, or software to examine or investigate the licensee or person subject to this code;

(IV) Accept and rely on examination or investigation reports made by other government officials, within or outside this state; and

(V) Accept audit reports made by an independent certified public accountant for the licensee or person subject to this code in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in a report of examination, report of investigation, or other writing of the administrator.

(c) A licensee or person subject to investigation or examination under this section may not knowingly withhold, abstract, remove, mutilate, or destroy any records or other information relating to information regulated under this code.

(d) Whenever it appears to the administrator that a person has violated, is violating, or is about to violate a provision of this section or a rule adopted pursuant to this code or that a licensee or an owner, director, officer, member, partner, shareholder, trustee, employee, or agent of the licensee has committed fraud, engaged in dishonest activities, or made a misrepresentation, the administrator may take action against the person or licensee in accordance with article 6 of this title 5.

(20) **Compliance with federal law.** A student loan servicer
SHALL COMPLY WITH ALL APPLICABLE FEDERAL LAWS AND REGULATIONS
RELATING TO SERVICING, INCLUDING THE FEDERAL "TRUTH IN LENDING
Act", 15 U.S.C. sec. 1601 to 1667f, as amended, and the
REGULATIONS ADOPTED PURSUANT TO THAT ACT. IN ADDITION TO ANY
OTHER REMEDIES PROVIDED BY LAW, A VIOLATION OF THAT ACT OR
REGULATIONS ADOPTED PURSUANT TO THAT ACT IS A VIOLATION OF THIS
SECTION AND A BASIS UPON WHICH THE ADMINISTRATOR MAY TAKE
ENFORCEMENT ACTION PURSUANT TO THIS CODE.

(21) Penalties. (a) A VIOLATION OF THIS SECTION IS A DECEPTIVE
TRADE PRACTICE WITHIN THE MEANING OF SECTION 6-1-105 AND SUBJECT
TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN SECTION
6-1-107.

(b) A STUDENT LOAN SERVICER WHO 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:

(I) ANY ACTUAL DAMAGES SUSTAINED BY THE STUDENT LOAN
BORROWER AS A RESULT OF THE FAILURE;

(II) A MONETARY AWARD EQUAL TO THREE TIMES THE TOTAL
AMOUNT THE STUDENT LOAN SERVICER COLLECTED FROM THE STUDENT
LOAN BORROWER;

(III) PUNITIVE DAMAGES AS THE COURT MAY ALLOW; AND

(IV) IN THE CASE OF ANY SUCCESSFUL ACTION BY A STUDENT LOAN
BORROWER TO ENFORCE THE LIABILITY SET OUT IN THIS SUBSECTION (21),
THE COSTS OF THE ACTION, TOGETHER WITH REASONABLE ATTORNEY FEES
AS DETERMINED BY THE COURT.

(c) THE REMEDIES PROVIDED IN THIS SUBSECTION (21) ARE NOT
THE EXCLUSIVE REMEDIES AVAILABLE TO A STUDENT LOAN BORROWER,
NOR MUST THE STUDENT LOAN BORROWER EXHAUST ANY ADMINISTRATIVE REMEDIES PROVIDED UNDER THIS SUBSECTION (21) OR ANY OTHER APPLICABLE LAW BEFORE PROCEEDING UNDER THIS SUBSECTION (21).

SECTION 3. In Colorado Revised Statutes, 5-1-202, amend (1)(f) as follows:

5-1-202. Exclusions. (1) This code does not apply to:

(f) Loans made, originated, disbursed, serviced, or guaranteed by an agency, instrumentality, or political subdivision of the state pursuant to article 3.1 of title 23; EXCEPT THAT NOTHING IN THIS SUBSECTION (1)(f) AFFECTS THE ADMINISTRATOR'S ABILITY TO ENFORCE THE CODE IN COMPLIANCE WITH SECTION 5-2-311 WITH REGARD TO THE SERVICING BY A NONGOVERNMENTAL ENTITY OF A LOAN ORIGINATED, DISBURSED, OR GUARANTEED BY AN AGENCY, INSTRUMENTALITY, OR POLITICAL SUBDIVISION OF THE STATE.

SECTION 4. In Colorado Revised Statutes, 6-1-105, add (1)(kkk) as follows:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(kkk) VIOLATES SECTION 5-2-311.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2020; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November.
2020 and, in such case, will take effect on the date of the official
declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable
effective date of this act.