

HOUSE BILL 594

I1, F2, I3

9lr1594
CF 9lr1595

By: **The Speaker (By Request – Office of the Attorney General) and Delegates Atterbeary, Barve, Clippinger, D.E. Davis, Fennell, Gaines, Hettleman, Hill, Kelly, Sample–Hughes, Stein, Valentino–Smith, and Wilson**

Introduced and read first time: February 4, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Student Loan Servicers – Unfair, Abusive, or Deceptive**
3 **Trade Practices**

4 FOR the purpose of prohibiting a student loan servicer from employing any scheme, device,
5 or artifice to mislead a student loan borrower; prohibiting a student loan servicer
6 from engaging in any unfair, abusive, or deceptive trade practice toward any person;
7 prohibiting a student loan servicer from misrepresenting or omitting certain
8 information in connection with the servicing of a certain loan; prohibiting a student
9 loan servicer from obtaining property by misrepresentation or omission of a certain
10 fact; prohibiting a student loan servicer from applying a payment from a student
11 loan borrower to a certain loan in a certain manner; prohibiting a student loan
12 servicer from knowingly or recklessly misapplying or refusing to correct a
13 misapplication of a certain payment under certain circumstances; prohibiting a
14 student loan servicer from knowingly or recklessly providing certain information, or
15 refusing to correct certain information provided, to a certain consumer reporting
16 agency; prohibiting a student loan servicer from failing to report a certain history to
17 a certain consumer reporting agency under certain circumstances; prohibiting a
18 student loan servicer from refusing to communicate with a certain representative of
19 a certain student loan borrower under certain circumstances; prohibiting a student
20 loan servicer from negligently making a certain statement or omitting a certain fact
21 in connection with certain information filed with, or a certain investigation
22 conducted by, a certain government agency; prohibiting a student loan servicer from
23 violating a certain law concerning student education loan servicing; authorizing a
24 certain student loan servicer to adopt procedures to verify that a certain
25 representative of a student loan borrower is authorized to act in a certain manner;
26 requiring a student loan servicer to respond to a certain inquiry or complaint in a
27 certain manner; requiring a student loan servicer to provide a certain document
28 under certain circumstances; requiring a student loan servicer to apply a certain
29 payment in a certain manner; providing that a violation of this Act is an unfair,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 abusive, or deceptive trade practice and is subject to certain enforcement and penalty
2 provisions, including certain criminal penalty; defining certain terms; and generally
3 relating to student loan servicers.

4 BY adding to

5 Article – Education

6 Section 26–601 through 26–603 to be under the new subtitle “Subtitle 6. Student
7 Loan Servicers”

8 Annotated Code of Maryland

9 (2018 Replacement Volume and 2018 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
11 That the Laws of Maryland read as follows:

12 **Article – Education**

13 **SUBTITLE 6. STUDENT LOAN SERVICERS.**

14 **26–601.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) “CONSUMER REPORTING AGENCY” HAS THE MEANING STATED IN §
18 14–1201 OF THE COMMERCIAL LAW ARTICLE.

19 (C) “NONCONFORMING PAYMENT” MEANS A PAYMENT MADE BY A STUDENT
20 LOAN BORROWER THAT IS MORE OR LESS THAN THE REQUIRED PAYMENT FOR A
21 STUDENT EDUCATION LOAN.

22 (D) “SERVICING” MEANS:

23 (1) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT
24 LOAN BORROWER ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;

25 (2) APPLYING THE PAYMENTS FROM A STUDENT LOAN BORROWER
26 RECEIVED ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;

27 (3) INTERACTING WITH A STUDENT LOAN BORROWER IN
28 CONNECTION WITH THE REPAYMENT, RESTRUCTURING, OR DEFERRAL OF
29 REPAYMENT OF A STUDENT EDUCATION LOAN; OR

30 (4) PERFORMING OTHER ADMINISTRATIVE SERVICES RELATED TO A
31 STUDENT EDUCATION LOAN.

1 **(E) “STUDENT EDUCATION LOAN” MEANS ANY LOAN, NOTWITHSTANDING**
2 **ANY ELECTION OF LAW OR DESIGNATION OF STATUS IN ANY CONTRACT, USED FOR**
3 **FINANCING POSTSECONDARY EDUCATION OR OTHER POSTSECONDARY**
4 **SCHOOL-RELATED EXPENSES.**

5 **(F) “STUDENT LOAN BORROWER” MEANS A RESIDENT OF THE STATE WHO:**

6 **(1) HAS RECEIVED OR AGREED TO PAY A STUDENT EDUCATION LOAN;**
7 **OR**

8 **(2) SHARES REPAYMENT RESPONSIBILITY WITH A RESIDENT**
9 **DESCRIBED IN ITEM (1) OF THIS SUBSECTION.**

10 **(G) (1) “STUDENT LOAN SERVICER” MEANS A PERSON, REGARDLESS OF**
11 **LOCATION, RESPONSIBLE FOR SERVICING A STUDENT EDUCATION LOAN TO A**
12 **STUDENT LOAN BORROWER.**

13 **(2) “STUDENT LOAN SERVICER” INCLUDES A TRUST ENTITY**
14 **PERFORMING OR RECEIVING THE BENEFIT OF STUDENT LOAN SERVICING.**

15 **26-602.**

16 **(A) A STUDENT LOAN SERVICER MAY NOT:**

17 **(1) EMPLOY, DIRECTLY OR INDIRECTLY, ANY SCHEME, DEVICE, OR**
18 **ARTIFICE TO MISLEAD A STUDENT LOAN BORROWER;**

19 **(2) ENGAGE IN ANY UNFAIR, ABUSIVE, OR DECEPTIVE TRADE**
20 **PRACTICE TOWARD ANY PERSON;**

21 **(3) MISREPRESENT INFORMATION OR OMIT ANY MATERIAL**
22 **INFORMATION IN CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION**
23 **LOAN, INCLUDING:**

24 **(I) ANY FEE OWED BY A STUDENT LOAN BORROWER;**

25 **(II) ANY PAYMENT DUE BY A STUDENT LOAN BORROWER;**

26 **(III) THE APPROPRIATENESS OR AVAILABILITY OF A STUDENT**
27 **LOAN BORROWER’S REPAYMENT OPTIONS;**

28 **(IV) THE TERMS AND CONDITIONS OF THE STUDENT EDUCATION**
29 **LOAN; OR**

1 **(V) THE STUDENT LOAN BORROWER'S OBLIGATIONS UNDER**
2 **THE STUDENT EDUCATION LOAN;**

3 **(4) OBTAIN PROPERTY BY MISREPRESENTATION OF FACT OR**
4 **OMISSION OF MATERIAL FACT;**

5 **(5) APPLY A PAYMENT FROM A STUDENT LOAN BORROWER TO A**
6 **STUDENT EDUCATION LOAN IN A MANNER DETRIMENTAL TO THE STUDENT LOAN**
7 **BORROWER;**

8 **(6) KNOWINGLY OR RECKLESSLY MISAPPLY, OR REFUSE TO CORRECT**
9 **A MISAPPLICATION OF:**

10 **(I) A PAYMENT FROM A STUDENT LOAN BORROWER; OR**

11 **(II) EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW, A**
12 **FEDERAL STUDENT EDUCATION LOAN AGREEMENT, OR A CONTRACT BETWEEN THE**
13 **FEDERAL GOVERNMENT AND A STUDENT LOAN SERVICER, A NONCONFORMING**
14 **PAYMENT IN A MANNER THAT WAS NOT REQUESTED BY THE STUDENT LOAN**
15 **BORROWER;**

16 **(7) KNOWINGLY OR RECKLESSLY PROVIDE INACCURATE**
17 **INFORMATION TO A CONSUMER REPORTING AGENCY, OR REFUSE TO CORRECT**
18 **INACCURATE INFORMATION PROVIDED TO A CONSUMER REPORTING AGENCY;**

19 **(8) IF A STUDENT LOAN SERVICER REGULARLY REPORTS**
20 **INFORMATION TO A CONSUMER REPORTING AGENCY, FAIL TO REPORT THE**
21 **FAVORABLE HISTORY OF A STUDENT LOAN BORROWER TO A NATIONALLY**
22 **RECOGNIZED CONSUMER REPORTING AGENCY AT LEAST ONCE A YEAR;**

23 **(9) SUBJECT TO SUBSECTION (B) OF THIS SECTION, REFUSE TO**
24 **COMMUNICATE WITH AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN**
25 **BORROWER WHO PROVIDES A WRITTEN AUTHORIZATION SIGNED BY THE STUDENT**
26 **LOAN BORROWER;**

27 **(10) NEGLIGENCELY MAKE A FALSE STATEMENT OR OMIT A MATERIAL**
28 **FACT IN CONNECTION WITH ANY INFORMATION REPORT FILED WITH, OR ANY**
29 **INVESTIGATION CONDUCTED BY, A STATE OR LOCAL GOVERNMENT AGENCY; OR**

30 **(11) VIOLATE ANY FEDERAL LAW CONCERNING STUDENT EDUCATION**
31 **LOAN SERVICING.**

1 **(B) A STUDENT LOAN SERVICER MAY ADOPT PROCEDURES TO VERIFY THAT**
2 **AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN BORROWER IS, IN FACT,**
3 **AUTHORIZED TO ACT ON BEHALF OF THE STUDENT LOAN BORROWER.**

4 **(C) (1) A STUDENT LOAN SERVICER SHALL ACKNOWLEDGE RECEIPT OF A**
5 **WRITTEN INQUIRY OR COMPLAINT FROM A STUDENT LOAN BORROWER OR THE**
6 **AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN BORROWER WITHIN 10 DAYS**
7 **AFTER RECEIVING THE INQUIRY OR COMPLAINT.**

8 **(2) A STUDENT LOAN SERVICER SHALL PROVIDE INFORMATION**
9 **RESPONDING TO A WRITTEN INQUIRY OR COMPLAINT RECEIVED UNDER PARAGRAPH**
10 **(1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER RECEIVING THE INQUIRY OR**
11 **COMPLAINT.**

12 **(3) IF A WRITTEN INQUIRY OR COMPLAINT RECEIVED UNDER**
13 **PARAGRAPH (1) OF THIS SUBSECTION RELATES TO A STUDENT LOAN BORROWER'S**
14 **ACCOUNT BALANCE, THE INFORMATION PROVIDED UNDER PARAGRAPH (2) OF THIS**
15 **SUBSECTION SHALL:**

16 **(I) STATE THAT THE STUDENT LOAN SERVICER HAS**
17 **CORRECTED THE ACCOUNT BALANCE; OR**

18 **(II) EXPLAIN WHY THE STUDENT LOAN SERVICER BELIEVES**
19 **THAT THE STUDENT LOAN BORROWER'S ACCOUNT IS CORRECT.**

20 **(D) IF A STUDENT LOAN BORROWER REQUESTS A DOCUMENT CONCERNING**
21 **THE ACCOUNT OF THE STUDENT LOAN BORROWER THAT IS IN THE POSSESSION OR**
22 **CONTROL OF A STUDENT LOAN SERVICER, THE STUDENT LOAN SERVICER SHALL**
23 **PROVIDE THE DOCUMENT WITHIN 30 DAYS AFTER RECEIVING THE REQUEST.**

24 **(E) IF A STUDENT LOAN SERVICER RECEIVES A NONCONFORMING**
25 **PAYMENT, THE STUDENT LOAN SERVICER SHALL:**

26 **(1) NOTIFY THE STUDENT LOAN BORROWER THAT THE PAYMENT IS A**
27 **NONCONFORMING PAYMENT WITHIN 10 DAYS AFTER RECEIVING THE PAYMENT; AND**

28 **(2) ASK THE STUDENT LOAN BORROWER HOW THE STUDENT LOAN**
29 **BORROWER WOULD LIKE THE STUDENT LOAN SERVICER TO APPLY THE**
30 **NONCONFORMING PAYMENT TO THE STUDENT LOAN BORROWER'S ACCOUNT.**

31 **26-603.**

32 **A VIOLATION OF THIS SUBTITLE IS:**

1 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN**
2 **THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

3 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
4 **CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2019.