

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4735

(SENATE AUTHORS: OUMOU VERBETEN and Fateh)

DATE	D-PG	OFFICIAL STATUS
03/07/2024	12054	Introduction and first reading Referred to Commerce and Consumer Protection
03/13/2024	12169a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
03/25/2024	12881	Comm report: To pass and re-referred to Commerce and Consumer Protection See SF4097

1.1 A bill for an act

1.2 relating to commerce; regulating private student loan servicers and lenders;

1.3 providing for civil penalties; amending Minnesota Statutes 2022, sections 58B.02,

1.4 subdivision 8, by adding a subdivision; 58B.03, by adding a subdivision; 58B.06,

1.5 subdivisions 4, 5; 58B.07, subdivisions 1, 3, 9, by adding subdivisions; 58B.09,

1.6 by adding a subdivision; proposing coding for new law in Minnesota Statutes,

1.7 chapter 58B.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 58B.02, subdivision 8, is amended to read:

1.10 Subd. 8. **Student loan.** "Student loan" means a government, commercial, or foundation

1.11 ~~loan~~ extension of credit for actual costs paid for tuition and reasonable education and living

1.12 expenses.

1.13 Sec. 2. Minnesota Statutes 2022, section 58B.02, is amended by adding a subdivision to

1.14 read:

1.15 Subd. 8a. **Lender.** "Lender" means an entity engaged in the business of securing, making,

1.16 or extending student loans. Lender does not include, to the extent that state regulation is

1.17 preempted by federal law:

1.18 (1) a bank, savings banks, savings and loan association, or credit union;

1.19 (2) a wholly owned subsidiary of a bank or credit union; or

1.20 (3) an operating subsidiary where each owner is wholly owned by the same bank or

1.21 credit union.

2.1 Sec. 3. Minnesota Statutes 2022, section 58B.03, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 10. **Reporting.** (a) Beginning January 31, 2025, a student loan servicer that secures,
2.4 makes, or extends student loans in the state must report to the commissioner on the form
2.5 the commissioner provides:

2.6 (1) a list of all schools attended by borrowers who received a student loan from the
2.7 student loan servicer and resided within the state at the time of the transaction and whose
2.8 debt is still outstanding, including student loans used to refinance an existing debt;

2.9 (2) the total outstanding dollar amount owed by borrowers residing in the state who
2.10 received student loans from the student loan servicer;

2.11 (3) the total number of student loans owed by borrowers residing in the state who received
2.12 student loans from the student loan servicer;

2.13 (4) the total outstanding dollar amount and number of student loans owed by borrowers
2.14 who reside in the state, associated with each school identified under clause (1);

2.15 (5) the total dollar amount of student loans provided by the student loan servicer to
2.16 borrowers who resided in the state in the prior calendar year;

2.17 (6) the total outstanding dollar amount and number of student loans owed by borrowers
2.18 who resided in the state, associated with each school identified under clause (1), that were
2.19 provided in the prior calendar year;

2.20 (7) the rate of default for borrowers residing in the state who obtained student loans
2.21 from the student loan servicer, if applicable;

2.22 (8) the rate of default for borrowers residing in the state who obtained student loans
2.23 from the student loan servicer associated with each school identified under clause (1), if
2.24 applicable;

2.25 (9) the range of initial interest rates for student loans provided by the student loan servicer
2.26 to borrowers who resided in the state in the prior calendar year;

2.27 (10) of the total number of borrowers who received student loans under clause (9), and
2.28 the percentage of borrowers who received each rate identified under clause (9);

2.29 (11) the total dollar amount and number of student loans provided in the prior calendar
2.30 year by the student loan servicer to borrowers who resided in the state at the time of the
2.31 transaction and had a cosigner for the student loans;

3.1 (12) the total dollar amount and number of student loans provided by the student loan
3.2 servicer to borrowers residing in the state used to refinance a prior student loan or federal
3.3 student loan in the prior calendar year;

3.4 (13) the total dollar amount and number of student loans for which the student loan
3.5 servicer had sued to collect from a borrower residing in the state in the prior calendar year;

3.6 (14) a copy of any model promissory note, agreement, contract, or other instrument used
3.7 by the student loan servicer in the previous year to substantiate that a borrower owes a new
3.8 debt to the student loan servicer; and

3.9 (15) any other information considered necessary by the commissioner to assess the total
3.10 size and status of the student loan market and well-being of borrowers in the state.

3.11 (b) A student loan servicer that acquires or assumes student loans in the state must report
3.12 to the commissioner on the form the commissioner provides:

3.13 (1) a list of all schools attended by borrowers residing in the state who used, for
3.14 attendance, any outstanding student loans assumed or acquired by the student loan servicer;

3.15 (2) the total outstanding dollar amount and number of student loans that have been
3.16 acquired or assumed by the student loan servicer and owed by borrowers who reside in the
3.17 state;

3.18 (3) the total outstanding dollar amount and number of student loans owed by borrowers
3.19 who reside in the state that have been assumed or acquired by the student loan servicer,
3.20 associated with each school identified under clause (1);

3.21 (4) the total dollar amount and number of student loans owed by borrowers who resided
3.22 in the state that were acquired or assumed by the student loan servicer in the prior calendar
3.23 year;

3.24 (5) the total dollar amount and number of student loans that were acquired or assumed
3.25 by the student loan servicer and owed by borrowers who resided in the state in the prior
3.26 year, associated with each school identified under clause (1);

3.27 (6) the rate of default for student loans acquired or assumed by the student loan servicer,
3.28 if applicable;

3.29 (7) the rate of default for student loans acquired or assumed by the student loan servicer
3.30 associated with each school identified under clause (1), if applicable;

3.31 (8) the total outstanding dollar amount and number of student loans owed by borrowers
3.32 residing in the state who had a cosigner for the student loans, if applicable;

4.1 (9) the total outstanding dollar amount and number of student loans that were acquired
4.2 or assumed by the student loan servicer and owed by borrowers residing in the state to
4.3 refinance a prior student loan or federal student loan;

4.4 (10) the total dollar amount and number of student loans for which the student loan
4.5 servicer had sued to collect from borrowers residing in the state in the prior calendar year;
4.6 and

4.7 (11) any other information considered necessary by the commissioner to assess the total
4.8 size and status of the student loan market and well-being of borrowers in the state.

4.9 Sec. 4. **[58B.051] REGISTRATION FOR LENDERS.**

4.10 (a) Beginning January 1, 2025, a lender must register with the commissioner as a lender
4.11 before providing services in Minnesota. A lender must not offer or make a student loan to
4.12 a resident of Minnesota without first registering with the commissioner as provided in this
4.13 section.

4.14 (b) A registration application must include:

4.15 (1) the lender's name;

4.16 (2) the lender's address;

4.17 (3) the name of all officers, directors, partners, and owners of controlling interests in
4.18 the lender;

4.19 (4) the addresses of all officers, directors, partners, and owners of controlling interests
4.20 in the lender; and

4.21 (5) any other information the commissioner requires by rule.

4.22 (c) A lender must renew the lender's registration on an annual basis and may be required
4.23 to pay a fee at the time of renewal.

4.24 (d) The commissioner may adopt and enforce:

4.25 (1) registration procedures for lenders, which may include using the Nationwide
4.26 Multistate Licensing System and Registry;

4.27 (2) registration fees for lenders, which may include fees for using the Nationwide
4.28 Multistate Licensing System and Registry, to be paid directly by the lender;

4.29 (3) procedures and fees to renew a lender's registration, which may include fees for the
4.30 renewed use of Nationwide Multistate Licensing System and Registry, to be paid directly
4.31 by the lender; and

5.1 (4) alternate registration procedures and fees for institutions of postsecondary education
5.2 that offer student loans.

5.3 Sec. 5. Minnesota Statutes 2022, section 58B.06, subdivision 4, is amended to read:

5.4 Subd. 4. **Transfer of student loan.** (a) If a borrower's student loan servicer changes
5.5 pursuant to the sale, assignment, or transfer of the servicing, the original student loan servicer
5.6 must:

5.7 (1) require the new student loan servicer to honor all benefits that were made available,
5.8 or which may have become available, to a borrower from the original student loan servicer,
5.9 including, without limitation, any benefits for which the student loan borrower has not yet
5.10 qualified; and

5.11 (2) transfer to the new student loan servicer all information regarding the borrower, the
5.12 account of the borrower, and the borrower's student loan, including but not limited to the
5.13 repayment status of the student loan and the benefits described in clause (1).

5.14 (b) The student loan servicer must complete the transfer under paragraph (a), clause (2),
5.15 less than 45 days from the date of the sale, assignment, or transfer of the servicing.

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

5.18 (d) A new student loan servicer must adopt policies and procedures to verify that the
5.19 original student loan servicer has met the requirements of paragraph (a).

5.20 Sec. 6. Minnesota Statutes 2022, section 58B.06, subdivision 5, is amended to read:

5.21 Subd. 5. **Income-driven repayment.** (a) A student loan servicer must evaluate a borrower
5.22 for eligibility for an income-driven repayment program before placing a borrower in
5.23 forbearance or default.

5.24 (b) A student loan servicer must provide the following information on the student loan
5.25 servicer's website:

5.26 (1) a description of any income-driven repayment programs offered by the student loan
5.27 servicer; and

5.28 (2) information on the policies and procedures the student loan servicer implements to
5.29 facilitate the evaluation of student loan income-driven repayment program requests, including
5.30 accurate information regarding any options that may be available to the borrower through

6.1 the promissory note or that may have been marketed to the borrower through marketing
 6.2 materials.

6.3 Sec. 7. Minnesota Statutes 2022, section 58B.07, subdivision 1, is amended to read:

6.4 Subdivision 1. **Misleading borrowers.** A student loan servicer must not directly or
 6.5 indirectly employ any scheme, device, or artifice to attempt to defraud or mislead a borrower.

6.6 Sec. 8. Minnesota Statutes 2022, section 58B.07, subdivision 3, is amended to read:

6.7 Subd. 3. **Misapplication of payments.** A student loan servicer must not knowingly or
 6.8 negligently misapply student loan payments to the outstanding balance of a student loan.

6.9 Sec. 9. Minnesota Statutes 2022, section 58B.07, subdivision 9, is amended to read:

6.10 Subd. 9. **Incorrect information regarding student ~~loan forgiveness~~ loans.** (a) A
 6.11 student loan servicer must not misrepresent the availability of student loan forgiveness for
 6.12 which the servicer has reason to know the borrower is eligible. This includes but is not
 6.13 limited to student loan forgiveness programs specific to military borrowers, borrowers
 6.14 working in public service, or borrowers with disabilities.

6.15 (b) A student loan servicer must not provide incorrect information related to forbearance.
 6.16 If a student loan servicer incorrectly suggests placing a borrower in forbearance and the
 6.17 borrower relies on this information, the student loan servicer shall be subject to the penalties
 6.18 provided under section 58B.09.

6.19 Sec. 10. Minnesota Statutes 2022, section 58B.07, is amended by adding a subdivision to
 6.20 read:

6.21 Subd. 11. **Property.** A student loan servicer must not obtain property by fraud or
 6.22 misrepresentation.

6.23 Sec. 11. Minnesota Statutes 2022, section 58B.07, is amended by adding a subdivision to
 6.24 read:

6.25 Subd. 12. **Customer service.** A student loan servicer must not allow a borrower to
 6.26 remain on hold with a customer service representative for more than two hours.

7.1 Sec. 12. Minnesota Statutes 2022, section 58B.07, is amended by adding a subdivision to
7.2 read:

7.3 Subd. 13. **Abusive acts or practices.** A student loan servicer must not engage in abusive
7.4 acts or practices when servicing a student loan in this state. An act or practice is abusive in
7.5 connection with the servicing of a student loan if that act or practice:

7.6 (1) materially interferes with the ability of a borrower to understand a term or condition
7.7 of a student loan; or

7.8 (2) takes unreasonable advantage of any of the following:

7.9 (i) a lack of understanding on the part of a borrower of the material risks, costs, or
7.10 conditions of the student loan;

7.11 (ii) the inability of a borrower to protect the interests of the borrower when selecting or
7.12 using a student loan or feature, term, or condition of a student loan; or

7.13 (iii) the reasonable reliance by the borrower on a student loan servicer to act in the
7.14 interests of the borrower.

7.15 Sec. 13. Minnesota Statutes 2022, section 58B.07, is amended by adding a subdivision to
7.16 read:

7.17 Subd. 14. **Violations.** A violation of this section is an unlawful practice under section
7.18 325D.44.

7.19 Sec. 14. Minnesota Statutes 2022, section 58B.09, is amended by adding a subdivision to
7.20 read:

7.21 Subd. 4. **Private right of action.** (a) A borrower who suffers damage as a result of the
7.22 failure of a student loan servicer to comply with this chapter may bring an action on a
7.23 borrower's own behalf and on behalf of a similarly situated class of persons against that
7.24 student loan servicer to recover or obtain:

7.25 (1) actual damages, except that the total award of damages must be at least \$500 per
7.26 plaintiff, per violation;

7.27 (2) an order enjoining the methods, acts, or practices;

7.28 (3) restitution of property;

7.29 (4) punitive damages;

7.30 (5) reasonable attorney fees; and

8.1 (6) any other relief that the court deems proper.

8.2 (b) In addition to any other remedies provided by this subdivision or otherwise provided
8.3 by law, if a student loan servicer is shown, by a preponderance of the evidence, to have
8.4 engaged in conduct that substantially interferes with a borrower's right to an alternative
8.5 payment arrangement; loan forgiveness, cancellation, or discharge; or any other financial
8.6 benefit established under the terms of a borrower's promissory note or under the Higher
8.7 Education Act of 1965, United States Code, title 20, section 1070a, et seq., a borrower is
8.8 entitled to damages of at least \$1,500 per plaintiff, per violation.

8.9 (c) At least 45 days before bringing an action for damages or injunctive relief under this
8.10 chapter, a borrower must:

8.11 (1) provide written notice to the student loan servicer alleged to have violated this chapter
8.12 regarding the nature of the alleged violations; and

8.13 (2) demand that the student loan servicer correct and remedy the method, act, or practice
8.14 identified in the notice under clause (1).

8.15 (d) The notice required by this subdivision must be sent by certified or registered mail,
8.16 return receipt requested, to the student loan servicer's address on file with the Department
8.17 of Commerce or to the student loan servicer's principal place of business in Minnesota.

8.18 (e) An action for damages or injunctive relief brought by a borrower only on the
8.19 individual borrower's behalf must not be maintained under paragraph (a) upon a showing
8.20 by a student loan servicer that an appropriate correction and remedy is given, or is agreed
8.21 to be given within a reasonable time, to the borrower within 30 days after the notice is
8.22 received.

8.23 (f) An action for damages brought by a borrower on both the borrower's behalf and on
8.24 behalf of a similarly situated class of persons must not be maintained under paragraph (a)
8.25 upon a showing by a student loan servicer alleged to have employed or committed a method,
8.26 act, or practice declared unlawful if:

8.27 (1) all borrowers similarly situated have been identified or a reasonable effort to identify
8.28 other borrowers has been made;

8.29 (2) all borrowers identified have been notified that, upon the borrower's request, the
8.30 student loan servicer must make the appropriate correction and remedy;

8.31 (3) the correction and remedy requested by the borrower has been given or is given
8.32 within a reasonable amount of time; and

9.1 (4) the student loan servicer has ceased from engaging, or if immediate cessation is
9.2 impossible or unreasonably expensive under the circumstances, the student loan servicer
9.3 ceases to engage within a reasonable amount of time, in the method, act, or practice.

9.4 (g) An attempt to comply with a demand described in paragraph (c) by a student loan
9.5 servicer that receives the demand is construed as an offer to compromise and is inadmissible
9.6 as evidence under Minnesota Rules of Evidence, rule 408. An attempt to comply with a
9.7 demand is not an admission of engaging in an act or practice declared unlawful by paragraph
9.8 (a). Evidence of compliance or attempts to comply with this section may be introduced by
9.9 a defendant to establish good faith or to show compliance with paragraph (a).

9.10 (h) An award of damages must not be given in an action based on a method, act, or
9.11 practice in violation of paragraph (a) if the student loan servicer alleged to have employed
9.12 or committed that method, act, or practice:

9.13 (1) proves by a preponderance of the evidence that the violation was not intentional and
9.14 resulted from a bona fide error, notwithstanding the use of reasonable procedures adopted
9.15 to avoid that error; and

9.16 (2) makes an appropriate correction, repair, replacement, or other remedy under
9.17 paragraphs (e) and (f).

9.18 (i) The commissioner must administer and enforce this section and must adopt rules and
9.19 issue orders consistent with the authority under this section.

9.20 Sec. 15. **EFFECTIVE DATE.**

9.21 This act is effective August 1, 2024.