

Amendment No. 496

Assembly Amendment to Assembly Bill No. 383 Proposed by: Assembly Committee on Commerce and Labor Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	(BDR 55-880)
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Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 383 (§§ 17, 20.5).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EWR/RBL



Date: 4/22/2019

A.B. No. 383—Revises provisions relating to student education loans.
(BDR 55-880)



ASSEMBLY BILL NO. 383—~~[ASSEMBLYMAN]~~ ASSEMBLYMEN FRIERSON; MCCURDY
AND WATTS

MARCH 21, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to student education loans.
(BDR 55-880)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to student education loans; providing for the licensing and regulation of student loan servicers by the Commissioner of Financial Institutions; providing for the designation of a Student Loan Ombudsman within the ~~[Division of Financial Institutions of the Department of Business and Industry]~~ Office of the State Treasurer and prescribing the powers and duties relating to that position; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Financial Institutions to supervise and control various financial institutions, lenders and fiduciaries, including, without limitation, banks, credit unions, payday lenders and trust companies. (Chapter 604A of NRS, titles 55 and 56 of NRS) **Sections 2-36** of this bill add a new chapter to NRS to provide for ~~[the]~~ the licensing and regulation of student loan servicers by the Commissioner. ~~[the and (2) the designation of a Student Loan Ombudsman within the Division of Financial Institutions of the Department of Business and Industry to assist student loan borrowers.]~~

Sections 3-10 of this bill define terms used in the new chapter. In particular, **section 6** of this bill defines a “student education loan” as a loan primarily for personal use to finance education or other school-related expenses. **Section 7** of this bill defines a “student loan borrower” as a resident of this State who receives or agrees to pay a student education loan, or any person who shares responsibility with such a resident for repaying the student education loan. **Section 9** of this bill defines a “student loan servicer” as a person responsible for servicing a student education loan, whether the person is licensed pursuant to the new chapter of NRS or exempt from licensure pursuant to the new chapter of NRS. **Section 10** of this bill defines “student loan servicing” or “servicing” as receiving scheduled payments, applying payments to principal and interest and performing ~~any~~ certain other administrative tasks with regard to student education loans.

Sections 11 and 14 of this bill provide for: (1) the Commissioner to designate a Student Loan Ombudsman within the ~~[Division]~~ Office of the State Treasurer to assist student loan borrowers; (2) the powers and duties of the Student Loan Ombudsman; and (3) the ~~[Commissioner]~~ State Treasurer to report to the Legislature concerning the Student Loan Ombudsman and the regulation of student loan servicers. **Section 15** of this bill provides for money received pursuant to the new chapter to be accounted for separately and used for the ~~[purposes of the Student Loan Ombudsman and the]~~ regulation of student loan servicers.

Sections 16-21, 25 and 34 of this bill set forth requirements relating to the licensing of student loan servicers. In particular, **section 16** of this bill prohibits a person from acting as a student loan servicer without obtaining a license from the Commissioner to do so, and also sets forth the persons exempted from this licensure requirement. **Section 17** of this bill sets forth various requirements for applying for a license, including, without limitation, the payment of a license fee and an investigation fee. **Section 34** of this bill provides that all fees paid are nonrefundable. **Section 20.5 of this bill requires the Commissioner to issue a license to persons who engage in student loan servicing in this State pursuant to certain contracts with the federal government without requiring those persons to comply with the standard requirements for the issuance of a license. Section 20.5: (1) requires persons who are issued such a license to comply with other relevant provisions of law; and (2) provides for the expiration of such a license not later than 37 days after the expiration, revocation or termination of the federal contract that provided the basis for the issuance of the license.**

Sections 22-24 and 26-28 of this bill set forth requirements governing the business practices and other actions of student loan servicers. Specifically, **section 22** of this bill sets forth requirements applicable to a licensee ceasing to engage in the business of student loan servicing in this State. **Section 23** of this bill sets forth requirements applicable to a person who provides a check or other method of payment to the Commissioner which is returned or otherwise dishonored. **Section 24** of this bill requires licensees and applicants for licenses to notify the Commissioner of any changes in certain information provided to the Commissioner. **Sections 26 and 27** of this bill set forth requirements concerning business names, business locations and recordkeeping relating to student loan servicers and student education loans. **Section 28** of this bill prohibits a student loan servicer from engaging in specified conduct, including, without limitation, engaging in unfair or deceptive practices, knowingly misapplying payments, negligently making certain false statements or knowingly and willfully making certain omissions of material facts.

Sections 29-32 of this bill: (1) authorize the Commissioner to conduct investigations and examinations relating to student loan servicers and student education loans; (2) authorize the Commissioner to retain certain professionals and specialists, enter into certain agreements and use certain resources for the purposes of investigations and examinations; (3) describe the scope of the authority of the Commissioner with regard to investigations and examinations; and (4) prohibit a student loan servicer or other person under examination or investigation from knowingly withholding or otherwise preventing access to information relating to the examination or investigation. **Section 12.5 of this bill authorizes the Student Loan Ombudsman designated pursuant to section 36.6 of this bill or a member of the public to submit a complaint concerning a student loan servicer to the Division of Financial Institutions of the Department of Business and Industry for investigation.**

Section 33 of this bill sets forth grounds upon which the Commissioner may deny an application for a license or suspend, revoke or refuse to renew a license. **Section 35** of this bill requires a student loan servicer to comply with certain federal laws and regulations, and deems a violation of those federal laws or regulations to be a violation of Nevada law upon which the Commissioner may act.

Section 36 of this bill requires the Commissioner to adopt regulations for the new chapter of NRS.

Sections 36.6-36.9 of this bill provide for: (1) the State Treasurer to designate a Student Loan Ombudsman within the Office of the State Treasurer to assist student loan borrowers; (2) the powers and duties of the Student Loan Ombudsman; and (3) the State Treasurer to report to the Legislature concerning the Student Loan Ombudsman and the regulation of student loan servicers.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 55 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 36, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to ~~9~~ 10, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 3. 1. "Control person" means:

(a) *An executive officer, director, general partner, trustee, member, qualified employee or shareholder of a student loan servicer, licensee or applicant for a license; or*

(b) *A person who is authorized to participate in direct or indirect control of the management or policies of a student loan servicer, licensee or applicant for a license.*

2. *As used in this section, "executive officer" means an officer, manager, partner or managing member of a student loan servicer, licensee or applicant for a license. The term includes, without limitation, a chief executive officer, president, vice president, chief financial officer, chief operating officer, chief legal officer, controller or compliance officer or a natural person who holds any similar position.*

Sec. 4. *"License" means a license issued by the Commissioner pursuant to this chapter.*

Sec. 5. *"Licensee" means a student loan servicer licensed by the Commissioner pursuant to this chapter.*

Sec. 6. *"Student education loan" means any loan primarily for personal use to finance education or other school-related expenses.*

Sec. 7. "Student loan borrower" means:

1. *Any resident of this State who receives or agrees to pay a student education loan; and*

2. *Any person who shares responsibility with such a resident for repaying the student education loan.*

Sec. 8. ~~*"Student Loan Ombudsman" means the Student Loan Ombudsman designated by the Commissioner pursuant to section 11 of this act.*~~
(Deleted by amendment.)

Sec. 9. *"Student loan servicer" means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower. The term includes each licensee and each person who engages in student loan servicing without a license pursuant to subsection 2 of section 16 of this act.*

Sec. 10. "Student loan servicing" or "servicing" means:

1. *Receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan ~~for~~*

~~*2. Applying or any notification that a student loan borrower made such a scheduled periodic payment and applying the payments [of principal and interest and such other payments with respect to the amounts received from] to the account of a student loan borrower, as may be required pursuant to the terms of a student education loan ~~for~~ and/or a contract governing the servicing of a student education loan;*~~

2. During a period in which no payment is required on a student education loan, maintaining account records for a student education loan and

1 communicating with the student loan borrower on behalf of the owner of the
2 promissory note for the student education loan; or

3 3. ~~[Performing any other administrative services with respect to a student~~
4 ~~education loan.] Interacting with a student loan borrower concerning a student~~
5 ~~education loan with the goal of helping the student loan borrower avoid default~~
6 ~~on the student education loan or facilitating the activities described in subsection~~
7 ~~1 or 2.~~

8 Sec. 11. ~~[The Commissioner shall designate a Student Loan Ombudsman~~
9 ~~within the Division of Financial Institutions to:~~

10 ~~1. Provide timely assistance to any student loan borrower of any student~~
11 ~~education loan; and~~

12 ~~2. Carry out the duties as set forth in this chapter.] (Deleted by~~
13 ~~amendment.)~~

14 Sec. 12. ~~[The Student Loan Ombudsman, in consultation with the~~
15 ~~Commissioner, shall:~~

16 ~~1. Receive, review and attempt to resolve any complaint from a student loan~~
17 ~~borrower, including, without limitation, attempting to resolve such a complaint in~~
18 ~~collaboration with an institution of higher education, a student loan servicer and~~
19 ~~any other person who participates in providing a student education loan.~~

20 ~~2. Compile and analyze data on complaints as described in subsection 1.~~

21 ~~3. Assist student loan borrowers to understand their rights and~~
22 ~~responsibilities under the terms of student education loans.~~

23 ~~4. Provide information to the public, governmental agencies and the~~
24 ~~Legislature regarding the problems and concerns of student loan borrowers and~~
25 ~~make recommendations for resolving those problems and concerns.~~

26 ~~5. Analyze and monitor the development and implementation of federal,~~
27 ~~state and local laws, regulations and policies relating to student loan borrowers~~
28 ~~and recommend any changes the Student Loan Ombudsman deems necessary.~~

29 ~~6. Review the complete history of any student education loan for any~~
30 ~~student loan borrower who has provided written consent for such a review.~~

31 ~~7. Disseminate information concerning the availability of the Student Loan~~
32 ~~Ombudsman to assist student loan borrowers and potential student loan~~
33 ~~borrowers, as well as institutions of higher education, student loan servicers and~~
34 ~~any other persons who participate in providing a student education loan, with any~~
35 ~~serving concerns.~~

36 ~~8. Take any other actions necessary to fulfill the duties of the Student Loan~~
37 ~~Ombudsman as set forth in this section.] (Deleted by amendment.)~~

38 Sec. 13. ~~[The Student Loan Ombudsman, in consultation with the~~
39 ~~Commissioner, shall establish and maintain an education course for student loan~~
40 ~~borrowers which provides educational presentations and materials regarding~~
41 ~~student education loans. The educational course must include, without limitation,~~
42 ~~information concerning important loan terms, documentation requirements,~~
43 ~~monthly payment obligations, income based repayment options, loan forgiveness~~
44 ~~and disclosure requirements.] (Deleted by amendment.)~~

45 Sec. 14. ~~[On or before February 1 of each odd numbered year, the~~
46 ~~Commissioner shall submit to the Director of the Legislative Counsel Bureau for~~
47 ~~transmittal to the next regular session of the Legislature a written report~~
48 ~~concerning:~~

49 ~~1. The implementation of this chapter;~~

50 ~~2. The overall effectiveness of the Student Loan Ombudsman; and~~

51 ~~3. Any additional actions the Commissioner deems necessary for the~~
52 ~~Division of Financial Institutions to gain regulatory control over student loan~~
53 ~~servicers.] (Deleted by amendment.)~~

Sec. 15. 1. The Commissioner shall:

(a) Administer and account for separately the money received pursuant to this chapter.

(b) Use the money received pursuant to this chapter for the purposes set forth in this chapter.

2. Any money that remains in the account at the end of the fiscal year does not revert to the State General Fund, and the balance of the account must be carried forward to the next fiscal year.

3. Any interest or income earned on the money in the account must be credited to the account, after deducting any applicable charges. Any claims against the account must be paid as other claims against the State are paid.

Sec. 16. 1. Except as otherwise provided in subsection 2, a person shall not act as a student loan servicer, directly or indirectly, without first obtaining a license from the Commissioner pursuant to this chapter.

2. The following persons may act as a student loan servicer without obtaining a license pursuant to this chapter:

(a) Any bank, savings and loan association, savings bank, thrift company or credit union, whether chartered by this State, another state or the Federal Government.

(b) Any wholly owned subsidiary of any person identified in paragraph (a).

(c) Any operating subsidiary of any person identified in paragraph (a) if each owner of the operating subsidiary is wholly owned by the same person identified in paragraph (a).

Sec. 17. A person may apply for a license as a student loan servicer by submitting a written application to the Commissioner on a form prescribed by the Commissioner. The application must be accompanied by:

1. A financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member authorized to execute such documents;

2. Written consent authorizing the Commissioner to conduct a background investigation of the applicant and, if applicable, each control person of the applicant, including, without limitation, authorization to obtain:

(a) An independent credit report from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(b) A criminal history report from the Federal Bureau of Investigation or any criminal history repository of any state, national or international governmental agency or entity; and

(c) Information related to any administrative, civil or criminal proceedings in any jurisdiction in which the applicant, or a control person of the applicant, is or has been a party;

3. A complete set of fingerprints of the applicant or, if the applicant is not a natural person, a complete set of fingerprints of each control person of the applicant to forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

4. Any other information requested by the Commissioner or otherwise required in connection with the evaluation and investigation of the applicant's qualifications and suitability for licensure;

5. A nonrefundable license fee of \$1,000; and

6. A nonrefundable investigation fee of \$800.

Sec. 18. 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance or renewal of a license as a student loan servicer or, if the applicant is not a natural person, each control

1 *person of the applicant, shall include the social security number of the applicant*
2 *or control person, as applicable, in the application submitted to the*
3 *Commissioner.*

4 *(b) A natural person who applies for the issuance or renewal of a license as a*
5 *student loan servicer or, if the applicant is not a natural person, each control*
6 *person of the applicant, shall submit to the Commissioner the statement*
7 *prescribed by the Division of Welfare and Supportive Services of the Department*
8 *of Health and Human Services pursuant to NRS 425.520.*

9 *2. The Commissioner shall include the statement required pursuant to*
10 *subsection 1 in:*

11 *(a) The application or any other forms that must be submitted for the*
12 *issuance or renewal of the license; or*

13 *(b) A separate form prescribed by the Commissioner.*

14 *3. A license as a student loan servicer may not be issued or renewed by the*
15 *Commissioner if the applicant or any control person of an applicant:*

16 *(a) Fails to submit the statement required by subsection 1; or*

17 *(b) Indicates on the statement submitted pursuant to subsection 1 that he or*
18 *she is subject to a court order for the support of a child and is not in compliance*
19 *with the order or a plan approved by the district attorney or other public agency*
20 *enforcing the order for the repayment of the amount owed pursuant to the order.*

21 *4. If an applicant or a control person indicates on the statement submitted*
22 *pursuant to subsection 1 that he or she is subject to a court order for the support*
23 *of a child and is not in compliance with the order or a plan approved by the*
24 *district attorney or other public agency enforcing the order for the repayment of*
25 *the amount owed pursuant to the order, the Commissioner shall advise the*
26 *applicant or control person, as applicable, to contact the district attorney or other*
27 *public agency enforcing the order to determine the actions that he or she may*
28 *take to satisfy the arrearage.*

29 *5. If the Commissioner receives a copy of a court order issued pursuant to*
30 *NRS 425.540 that provides for the suspension of all professional, occupational*
31 *and recreational licenses, certificates and permits issued to an applicant or*
32 *control person, the Commissioner shall deem that license to be suspended at the*
33 *end of the 30th day after the date on which the court order was issued unless the*
34 *Commissioner receives a letter issued to the applicant or control person by the*
35 *district attorney or other public agency pursuant to NRS 425.550 stating that he*
36 *or she has complied with the subpoena or warrant or has satisfied the arrearage*
37 *pursuant to NRS 425.560.*

38 *6. The Commissioner shall reinstate a license as a student loan servicer that*
39 *has been suspended by a district court pursuant to NRS 425.540 if the*
40 *Commissioner receives a letter issued by the district attorney or other public*
41 *agency pursuant to NRS 425.550 to the applicant or a control person of the*
42 *applicant stating that the applicant or control person, as applicable, has complied*
43 *with the subpoena or warrant or has satisfied the arrearage pursuant to NRS*
44 *425.560.*

45 **Sec. 19. 1. In addition to any other requirements set forth in this chapter,**
46 **a natural person who applies for the issuance or renewal of a license as a student**
47 **loan servicer or, if the applicant is not a natural person, each control person of**
48 **the applicant, shall submit to the Commissioner the statement prescribed by the**
49 **Division of Welfare and Supportive Services of the Department of Health and**
50 **Human Services pursuant to NRS 425.520.**

51 **2. The Commissioner shall include the statement required pursuant to**
52 **subsection 1 in:**

1 (a) *The application or any other forms that must be submitted for the*
2 *issuance or renewal of the license; or*

3 (b) *A separate form prescribed by the Commissioner.*

4 3. *A license as a student loan servicer may not be issued or renewed by the*
5 *Commissioner if the applicant or any control person of an applicant:*

6 (a) *Fails to submit the statement required by subsection 1; or*

7 (b) *Indicates on the statement submitted pursuant to subsection 1 that he or*
8 *she is subject to a court order for the support of a child and is not in compliance*
9 *with the order or a plan approved by the district attorney or other public agency*
10 *enforcing the order for the repayment of the amount owed pursuant to the order.*

11 4. *If an applicant or a control person indicates on the statement submitted*
12 *pursuant to subsection 1 that he or she is subject to a court order for the support*
13 *of a child and is not in compliance with the order or a plan approved by the*
14 *district attorney or other public agency enforcing the order for the repayment of*
15 *the amount owed pursuant to the order, the Commissioner shall advise the*
16 *applicant or control person, as applicable, to contact the district attorney or other*
17 *public agency enforcing the order to determine the actions that he or she may*
18 *take to satisfy the arrearage.*

19 5. *If the Commissioner receives a copy of a court order issued pursuant to*
20 *NRS 425.540 that provides for the suspension of all professional, occupational*
21 *and recreational licenses, certificates and permits issued to an applicant or*
22 *control person, the Commissioner shall deem that license to be suspended at the*
23 *end of the 30th day after the date on which the court order was issued unless the*
24 *Commissioner receives a letter issued to the applicant or control person by the*
25 *district attorney or other public agency pursuant to NRS 425.550 stating that he*
26 *or she has complied with the subpoena or warrant or has satisfied the arrearage*
27 *pursuant to NRS 425.560.*

28 6. *The Commissioner shall reinstate a license as a student loan servicer that*
29 *has been suspended by a district court pursuant to NRS 425.540 if the*
30 *Commissioner receives a letter issued by the district attorney or other public*
31 *agency pursuant to NRS 425.550 to the applicant or a control person of the*
32 *applicant stating that the applicant or control person, as applicable, has complied*
33 *with the subpoena or warrant or has satisfied the arrearage pursuant to NRS*
34 *425.560.*

35 **Sec. 20.** *Upon the filing of an application for an initial license and the*
36 *payment of the license fee and the investigation fee, the Commissioner shall*
37 *investigate the financial condition and responsibility, financial and business*
38 *experience, character and general fitness of the applicant. The Commissioner*
39 *may issue a license if the Commissioner finds that:*

40 1. *The applicant's financial condition is sound;*

41 2. *The applicant's business will be conducted honestly, fairly, equitably,*
42 *carefully and efficiently within the purposes and intent of this chapter and in a*
43 *manner commanding the confidence and trust of the community;*

44 3. *If the applicant is:*

45 (a) *A natural person, the person is in all respects properly qualified and of*
46 *good character;*

47 (b) *A partnership, each partner is in all respects properly qualified and of*
48 *good character;*

49 (c) *A corporation or association, the president, chairperson of the executive*
50 *committee, senior officer responsible for the corporation's business and chief*
51 *financial officer or any other person who performs similar functions as*
52 *determined by the Commissioner, each director, each trustee and each*

shareholder owning 10 percent or more of each class of the securities of such corporation is in all respects properly qualified and of good character; or

(d) A limited liability company, each member is in all respects properly qualified and of good character;

4. No person on behalf of the applicant knowingly has made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to this chapter;

5. No person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the Commissioner any information lawfully required by the Commissioner;

6. The applicant has paid the license fee and the investigation fee required by section 17 of this act; and

7. The applicant has met any other requirements set forth by the Commissioner in regulations adopted pursuant to this chapter.

Sec. 20.5. 1. Except as otherwise provided in this section, the provisions of sections 17 to 20, inclusive, of this act do not apply to a person whom the Commissioner determines only engages in the business of a student loan servicer in this State pursuant to a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f.

2. The Commissioner shall:

(a) Adopt regulations prescribing the factors that the Commissioner will use to make a determination pursuant to subsection 1; and

(b) Issue a license to a person described in subsection 1 upon the payment of the fee prescribed by section 17 of this act.

3. A person licensed pursuant to this section shall:

(a) Comply with all requirements of this chapter, except for those prescribed in sections 17 to 20, inclusive, of this act, and all other applicable requirements of state law to the extent that those requirements do not conflict with federal law; and

(b) Provide to the Commissioner written notice not later than 7 days after the expiration, revocation or termination of any contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f. A license issued pursuant to this section expires 30 days after the Commissioner receives the written notice.

4. The provisions of this section must not be construed to prohibit the Commissioner from taking any action to regulate student loan servicing that is not conducted pursuant to a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f.

Sec. 21. 1. A license issued pursuant to this chapter expires on September 30 of the odd-numbered year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to this chapter.

2. A licensee may renew the license for 2 years by filing an application containing all required documents and fees as set forth in section 17 of this act for an initial license. Such a renewal application shall be deemed to be timely filed if filed on or before September 1 of the year in which the license expires. Any renewal application filed with the Commissioner after September 1 must be accompanied by a late fee of \$100 and, if so, such a filing also shall be deemed to be timely filed. If an application for renewal of a license is timely filed with the Commissioner pursuant to this subsection on or before the date the license expires, the license sought to be renewed continues in full force and effect until the issuance by the Commissioner of the renewed license or until the Commissioner notifies the licensee in writing of the Commissioner's refusal to issue a renewed license together with the grounds upon which such refusal is

1 *based. The Commissioner may refuse to issue a renewed license on any ground*
2 *on which the Commissioner may refuse to issue an initial license.*

3 **Sec. 22.** *1. Not later than 15 days after a licensee ceases to engage in the*
4 *business of student loan servicing in this State for any reason, including, without*
5 *limitation, a business decision to terminate operations in this State, license*
6 *revocation, bankruptcy or voluntary dissolution, the licensee shall provide written*
7 *notice of surrender to the Commissioner and shall surrender to the*
8 *Commissioner its license for each location in which the licensee has ceased to*
9 *engage in such business.*

10 *2. A written notice of surrender provided pursuant to subsection 1 must*
11 *identify the location where the records of the licensee will be stored and the*
12 *name, address and telephone number of a natural person authorized to provide*
13 *access to the records.*

14 *3. The surrender of a license does not reduce or eliminate the licensee's*
15 *civil or criminal liability arising from acts or omissions occurring before the*
16 *surrender of the license, including, without limitation, any administrative actions*
17 *undertaken by the Commissioner to revoke or suspend a license, assess a civil*
18 *penalty, order restitution or exercise any other authority provided to the*
19 *Commissioner.*

20 **Sec. 23.** *If the Commissioner determines that a check or other method of*
21 *payment which is provided to the Commissioner to pay any fee required pursuant*
22 *to this chapter has been returned to the Commissioner or otherwise dishonored*
23 *because the person had insufficient money or credit with the drawee or financial*
24 *institution to pay the check or other method of payment or because the person*
25 *stopped payment on the check or other method of payment, the Commissioner*
26 *shall automatically refuse to issue, suspend or refuse to renew the license, as*
27 *applicable. The Commissioner must give the licensee reasonable advance notice*
28 *of this automatic action and an opportunity for a hearing.*

29 **Sec. 24.** *A licensee or an applicant for a license shall notify the*
30 *Commissioner, in writing, of any change in the information provided in the*
31 *initial application for a license or the most recent application for renewal of such*
32 *license, as applicable, not later than 10 business days after the occurrence of the*
33 *event that results in such information becoming inaccurate.*

34 **Sec. 25.** *The Commissioner may deem an application for a license*
35 *abandoned if the applicant fails to respond to any request for information*
36 *required pursuant to this chapter or any regulations adopted pursuant thereto.*
37 *The Commissioner shall notify the applicant, in writing, that if the applicant fails*
38 *to submit such information not later than 60 days after the date on which such a*
39 *request for information was made, the application shall be deemed abandoned.*
40 *Any fees paid before the date an application is deemed abandoned pursuant to*
41 *this section must not be refunded. Abandonment of an application pursuant to*
42 *this section does not preclude the applicant from submitting a new application for*
43 *a license pursuant to this chapter.*

44 **Sec. 26.** *A licensee shall not act as a student loan servicer or engage in*
45 *student loan servicing under any other name or at any other place of business*
46 *than that identified in the license. The licensee must notify the Commissioner in*
47 *advance of any change of location of a place of business of the licensee. Only one*
48 *place of business may be maintained under one license, but the Commissioner*
49 *may issue more than one license to the same licensee upon the licensee's*
50 *application for a license for each place of business. A license is not transferable*
51 *or assignable.*

52 **Sec. 27.** *1. A student loan servicer shall maintain a record of each*
53 *transaction relating to a student education loan for not less than 2 years*

1 following the final payment on the student education loan or the assignment of
2 the student education loan, whichever occurs first, or such longer period as may
3 be required by any other provision of law.

4 2. Upon the request of the Commissioner, a person required to maintain
5 records pursuant to subsection 1 shall make such records available to the
6 Commissioner, or send the records to the Commissioner, in the manner required
7 by the Commissioner not later than 5 business days after requested by the
8 Commissioner. Upon the person's request, the Commissioner may allow
9 additional time to make the records available to the Commissioner or send the
10 records to the Commissioner.

11 **Sec. 28.** A student loan servicer shall not:

12 1. Directly or indirectly employ any scheme, device or artifice to defraud or
13 mislead a student loan borrower.

14 2. Engage in any unfair or deceptive practice toward any person or
15 misrepresent or omit any material information in connection with the servicing of
16 a student education loan, including, without limitation, misrepresenting the
17 amount, nature or terms of any fee or payment due or claimed to be due on a
18 student education loan, the terms and conditions of the loan agreement or the
19 borrower's obligations under the loan.

20 3. Obtain property by fraud or misrepresentation.

21 4. Knowingly misapply student education loan payments to the outstanding
22 balance of a student education loan.

23 5. Knowingly or recklessly provide inaccurate information to a credit
24 bureau in a manner which may harm a student loan borrower's creditworthiness.

25 6. Fail to report both the favorable and unfavorable payment history of the
26 student loan borrower to a nationally recognized consumer credit bureau at least
27 annually if the student loan servicer regularly reports information to a credit
28 bureau.

29 7. Refuse to communicate with an authorized representative of the student
30 loan borrower if the authorized representative:

31 (a) Provides a written authorization signed by the student loan borrower; and

32 (b) Complies with any reasonable procedures which may be adopted by the
33 student loan servicer to verify that the representative is in fact authorized to act
34 on behalf of the student loan borrower.

35 8. Negligently make any false statement or knowingly and willfully make
36 any omission of a material fact in connection with any information or reports
37 filed with a governmental agency or in connection with any investigation
38 conducted by the Commissioner or another governmental agency.

39 **Sec. 28.5.** The Student Loan Ombudsman designated pursuant to section
40 36.6 of this act or a member of the public may submit a complaint concerning a
41 student loan servicer to the Division of Financial Institutions for investigation
42 pursuant to section 29 of this act.

43 **Sec. 29.** In addition to any other authority provided under this title, the
44 Commissioner may conduct investigations and examinations as follows:

45 1. For purposes of initial licensing, license renewal, license suspension,
46 license revocation or termination, or general or specific inquiry or investigation
47 to determine compliance with this chapter, the Commissioner may access, receive
48 and use any books, accounts, records, files, documents, information or evidence,
49 including, without limitation:

50 (a) Criminal, civil and administrative history information;

51 (b) Personal history and experience information, including, without
52 limitation, independent credit reports obtained from a consumer reporting agency

1 *described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a;*
2 *and*

3 *(c) Any other documents, information or evidence the Commissioner deems*
4 *relevant to the inquiry or investigation regardless of the location, possession,*
5 *control or custody of such documents, information or evidence.*

6 *2. For the purposes of investigating violations or complaints arising under*
7 *this chapter or for the purposes of examination, the Commissioner may review,*
8 *investigate or examine any student loan servicer or other person subject to this*
9 *chapter as often as necessary in order to carry out the purposes of this chapter.*
10 *The Commissioner may direct, subpoena or order the attendance of and examine*
11 *under oath any person whose testimony may be required about a student*
12 *education loan, the business of a student loan servicer or the subject matter of*
13 *any examination or investigation, and may direct, subpoena or order such a*
14 *person to produce books, accounts, records, files and any other documents the*
15 *Commissioner deems relevant to the inquiry.*

16 *3. In making any examination or investigation authorized by this section,*
17 *the Commissioner may control access to any documents and records of a student*
18 *loan servicer or other person under examination or investigation. The*
19 *Commissioner may take possession of the documents and records or place a*
20 *person in exclusive charge of the documents and records in the place where they*
21 *are usually kept. During the period of control, a person shall not remove or*
22 *attempt to remove any of the documents and records except pursuant to a court*
23 *order or with the consent of the Commissioner. Unless the Commissioner has*
24 *reasonable grounds to believe the documents or records of the student loan*
25 *servicer or other person under examination or investigation have been, or are at*
26 *risk of being, altered or destroyed for purposes of concealing a violation of this*
27 *chapter, the student loan servicer, the other person under examination or*
28 *investigation or the owner of the documents and records must be allowed access*
29 *to the documents or records as necessary to conduct ordinary business affairs.*

30 **Sec. 30.** *To carry out the purposes of this chapter, the Commissioner may:*

31 *1. Retain attorneys, accountants or other professionals and specialists as*
32 *examiners, auditors or investigators to conduct or assist in the conduct of*
33 *examinations or investigations;*

34 *2. Enter into agreements or relationships with other government officials or*
35 *regulatory associations to improve efficiency and reduce any regulatory burden*
36 *by sharing resources, standardizing or making uniform any applicable methods*
37 *or procedures, and sharing documents, records, information or evidence obtained*
38 *pursuant to this chapter;*

39 *3. Use, hire, contract or employ publicly or privately available analytical*
40 *systems, methods or software to examine or investigate a student loan servicer or*
41 *other person under examination or investigation;*

42 *4. Accept and rely on examination or investigation reports made by other*
43 *government officials, within or outside this State; and*

44 *5. Accept audit reports made by an independent certified public accountant*
45 *for a student loan servicer or other person under examination or investigation in*
46 *the course of that part of the examination covering the same general subject*
47 *matter as the audit and may incorporate the audit report in any report of*
48 *examination, report of investigation or other writing of the Commissioner.*

49 **Sec. 31.** *The authority of the Commissioner pursuant to this chapter with*
50 *regard to a student loan servicer or other person under examination or*
51 *investigation remains in effect, without regard to whether the student loan*
52 *servicer or other person acts or claims to act under any other licensing or*
53 *registration law of this State, or claims to act without such authority.*

1 *Sec. 32. A student loan servicer or other person under examination or*
2 *investigation pursuant to this chapter shall not knowingly withhold, abstract,*
3 *remove, mutilate, destroy or secrete any books, records, computer records or*
4 *other information related to an investigation or examination pursuant to this*
5 *chapter.*

6 *Sec. 33. The Commissioner may, as applicable, deny an application for a*
7 *license issued pursuant to this chapter or suspend, revoke or refuse to renew a*
8 *license issued pursuant to this chapter if the Commissioner finds that:*

9 *1. The applicant, licensee or a control person of the applicant or licensee*
10 *has violated any provision of this chapter or any regulation adopted pursuant*
11 *thereto; or*

12 *2. With regard to a licensee or a control person of the licensee, any fact or*
13 *condition exists which, if it had existed at the time of the original application for*
14 *the license, would have resulted in a denial of the application.*

15 *Sec. 34. All fees paid pursuant to this chapter are nonrefundable,*
16 *including, without limitation, if a license is surrendered, revoked or suspended*
17 *before the expiration of the period for which it was issued.*

18 *Sec. 35. A student loan servicer shall comply with all applicable federal*
19 *laws and regulations relating to student loan servicing, including, without*
20 *limitation, the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and the*
21 *regulations promulgated thereunder. In addition to any other remedies provided*
22 *by law, a violation of any such federal law or regulation shall be deemed a*
23 *violation of this chapter and a basis upon which the Commissioner may take*
24 *action pursuant to this chapter.*

25 *Sec. 36. The Commissioner shall adopt any regulations necessary to carry*
26 *out the provisions of this chapter.*

27 *Sec. 36.05. Chapter 226 of NRS is hereby amended by adding thereto the*
28 *provisions set forth as sections 36.1 to 36.9, inclusive, of this act.*

29 *Sec. 36.1. As used in sections 36.1 to 36.9, inclusive, of this act, unless the*
30 *context otherwise requires, the words and terms defined in sections 36.2 to 36.5,*
31 *inclusive, of this act have the meanings ascribed to them in those sections.*

32 *Sec. 36.2. "Student education loan" has the meaning ascribed to it in*
33 *section 6 of this act.*

34 *Sec. 36.3. "Student loan borrower" has the meaning ascribed to it in*
35 *section 7 of this act.*

36 *Sec. 36.4. "Student Loan Ombudsman" means the Student Loan*
37 *Ombudsman designated by the State Treasurer pursuant to section 36.6 of this*
38 *act.*

39 *Sec. 36.5. "Student loan servicer" has the meaning ascribed to it in section*
40 *9 of this act.*

41 *Sec. 36.6. The State Treasurer shall designate a Student Loan Ombudsman*
42 *within the Office of the State Treasurer to:*

43 *1. Provide timely assistance to any student loan borrower of any student*
44 *education loan; and*

45 *2. Carry out the duties as set forth in sections 36.1 to 36.8, inclusive, of this*
46 *act.*

47 *Sec. 36.7. The Student Loan Ombudsman shall:*

48 *1. Receive, review and attempt to resolve any complaint from a student loan*
49 *borrower, including, without limitation, attempting to resolve such a complaint in*
50 *collaboration with an institution of higher education, a student loan servicer and*
51 *any other person who participates in providing a student education loan.*

52 *2. Compile and analyze data on complaints as described in subsection 1.*

1 3. Assist student loan borrowers to understand their rights and
2 responsibilities under the terms of student education loans.

3 4. Provide information to the public, governmental agencies and the
4 Legislature regarding the problems and concerns of student loan borrowers and
5 make recommendations for resolving those problems and concerns.

6 5. Analyze and monitor the development and implementation of federal,
7 state and local laws, regulations and policies relating to student loan borrowers
8 and recommend any changes the Student Loan Ombudsman deems necessary.

9 6. Review the complete history of any student education loan for any
10 student loan borrower who has provided written consent for such a review.

11 7. Disseminate information concerning the availability of the Student Loan
12 Ombudsman to assist student loan borrowers, potential student loan borrowers,
13 institutions of higher education, student loan servicers and any other persons
14 who participate in providing a student education loan, with any concerns relating
15 to student loan servicing, as defined in section 10 of this act.

16 8. Take any other actions necessary to fulfill the duties of the Student Loan
17 Ombudsman as set forth in this section.

18 Sec. 36.8. The Student Loan Ombudsman shall establish and maintain an
19 education course for student loan borrowers which provides educational
20 presentations and materials regarding student education loans. The educational
21 course must include, without limitation, information concerning important loan
22 terms, documentation requirements, monthly payment obligations, income-based
23 repayment options, loan forgiveness and disclosure requirements.

24 Sec. 36.9. 1. The State Treasurer shall consult with the Commissioner of
25 Financial Institutions to obtain the recommendations of the Commissioner
26 concerning actions the Commissioner deems necessary for the Division of
27 Financial Institutions of the Department of Business and Industry to gain
28 regulatory control over student loan servicers.

29 2. On or before February 1 of each odd-numbered year, the State Treasurer
30 shall submit to the Director of the Legislative Counsel Bureau for transmittal to
31 the next regular session of the Legislature a written report concerning:

32 (a) The implementation of sections 36.1 to 36.9, inclusive, of this act;

33 (b) The overall effectiveness of the Student Loan Ombudsman; and

34 (c) The recommendations of the Commissioner of Financial Institutions
35 conveyed to the Student Loan Ombudsman pursuant to section 1 of this act.

36 Sec. 37. The provisions of subsection 1 of NRS 218D.380 do not apply to
37 any provision of this act which adds or revises a requirement to submit a report to
38 the Legislature.

39 Sec. 38. 1. This section and sections 1 to 18, inclusive, and 20 to 37,
40 inclusive, of this act become effective:

41 (a) Upon passage and approval for the purpose of adopting regulations and
42 performing any other preparatory administrative tasks necessary to carry out the
43 provisions of this act; and

44 (b) On January 1, 2020, for all other purposes.

45 2. Section 18 of this act expires by limitation on the date on which the
46 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
47 which the state has authority to withhold or suspend, or to restrict the use of
48 professional, occupational and recreational licenses of persons who:

49 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
50 to determine the paternity of a child or to establish or enforce an obligation for the
51 support of a child; or

52 (b) Are in arrears in the payment for the support of one or more children,

53 ➤ are repealed by the Congress of the United States.

1 3. Section 19 of this act becomes effective on the date on which the
2 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
3 which the state has authority to withhold or suspend, or to restrict the use of
4 professional, occupational and recreational licenses of persons who:

5 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
6 to determine the paternity of a child or to establish or enforce an obligation for the
7 support of a child; or

8 (b) Are in arrears in the payment for the support of one or more children,
9 ✎ are repealed by the Congress of the United States.