

Amendment No. 802

Assembly Amendment to Assembly Bill No. 382 First Reprint (BDR 55-116)
Proposed by: Assembly Committee on Ways and Means
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 382 R1 (§§ 16, 20, 21, 37, 37.5, 48.5).

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.

DP/WLK



Date: 5/27/2021

A.B. No. 382—Revises provisions relating to student education loans.
(BDR 55-116)



ASSEMBLY BILL NO. 382—ASSEMBLYMEN WATTS, BRITTNEY MILLER, ANDERSON, CONSIDINE, NGUYEN; BILBRAY-AXELROD, MARTINEZ, PETERS AND TORRES

MARCH 23, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to student education loans. (BDR 55-116)

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; requiring student loan servicers to pay certain assessments and fees; authorizing and requiring the Student Loan Ombudsman to perform certain acts; providing for the regulation of private education loans and private education lenders by the Commissioner; requiring the Commissioner to adopt certain regulations; establishing certain duties and prohibitions applicable to postsecondary educational institutions and postsecondary vocational institutions; ~~requiring the Commission on Postsecondary Education to adopt certain standards concerning postsecondary vocational institutions; prohibiting the Commission from delegating certain duties;~~ providing a penalty; 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 2-47** of this bill add a new chapter to the Nevada Revised Statutes to provide for the licensing and regulation of student loan servicers by the Commissioner as well as the regulation of private education loans and private education lenders. **Sections 3-13** of this bill define terms used in the new chapter. **Section 14** of this bill provides for money received pursuant to the new chapter to be accounted for separately and used for the regulation of student loan servicers. **Sections 15-21, 25, 41 and 42** of this bill set forth requirements relating to the licensing of student loan servicers. In particular, **section 15** 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 16** 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 and the submission of a surety bond. **Section 42** of this bill provides that all fees paid are nonrefundable. **Section 20** of this bill requires the Commissioner to issue a license to persons

who engage in student loan servicing in this State only 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** of this bill: (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. **Section 21** of this bill provides for the annual expiration and renewal of a license as a student loan servicer.

Sections 22-24 and 26-30 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 28** of this bill set forth requirements concerning business names, business locations and recordkeeping relating to student loan servicers and student education loans. **Section 29** 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. **Section 30** of this bill authorizes the Student Loan Ombudsman in the Office of the State Treasurer or any member of the public to file a complaint with the Division of Financial Institutions of the Department of Business and Industry concerning the actions of a student loan servicer.

Sections 31-36.5 of this bill establish provisions for a particular type of student loan, the private education loan, and for private education loan borrowers and private education lenders. In particular, **sections 31 and 32** of this bill establish certain protections for cosigners of private education loans. **Section 32** also prohibits a private education lender from accelerating repayment of a private education loan except in cases of a default in payment. **Section 33** of this bill establishes the rights and duties of private education lenders in cases of the total and permanent disability of a private education loan borrower or his or her cosigner. **Sections 34-36** of this bill set forth requirements and prohibitions governing the business practices and other actions of private education lenders. **Section 36.5** of this bill provides that a private education lender is not exempt from any applicable licensing requirements imposed by any other specific statute.

Sections 37-40 of this bill: (1) authorize the Commissioner to conduct investigations and examinations relating to student loan servicers and student education loans; (2) require the Commissioner to conduct such investigations and examinations at least annually; (3) require licensees to pay for such investigations and examinations; (4) authorize the Commissioner to retain certain professionals and specialists, enter into certain agreements and use certain resources for the purposes of investigations and examinations; (5) describe the scope of the authority of the Commissioner with regard to investigations and examinations; and (6) 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. Existing law requires financial institutions to pay assessments established by the Commissioner to cover the costs of certain independent audits and examinations, legal services provided by the Attorney General to the Commissioner and Division of Financial Institutions and supervision and examinations by the Commissioner or Division. (NRS 658.055, 658.098, 658.101) **Sections 37.5 and 48.5** of this bill require a licensed student loan servicer to pay those assessments.

Section 41 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 43** 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. **Sections 44, 45 and 46** of this bill establish the rights, remedies and penalties available for violations of the new chapter. **Section 45.5** of this bill provides that any books, records or other information obtained by the Division in connection with an application, complaint, audit, investigation or examination are confidential. **Section 50.5** of this bill makes a conforming change. **Section 47** of this bill requires the Commissioner

to adopt regulations for the new chapter. **Section 48** of this bill makes a conforming change to indicate the proper placement of the new chapter in Nevada Revised Statutes.

Existing law establishes the duties of the Student Loan Ombudsman designated by the State Treasurer. Those duties include receiving, reviewing and attempting to resolve complaints from student loan borrowers. (NRS 226.570) **Section 49** of this bill requires the Student Loan Ombudsman to make those complaints available to the Attorney General. **Section 50** of this bill makes a conforming change to indicate the placement of **section 49** in Nevada Revised Statutes.

~~[Under existing law, the Commission on Postsecondary Education within the Employment Security Division of the Department of Employment, Training and Rehabilitation licenses and regulates postsecondary educational institutions that are operated by private persons or entities in this State and their agents. (NRS 394.383-394.560) In particular, existing law vests the Commission with exclusive authority to license postsecondary educational institutions. (NRS 394.415) Section 62 of this bill prohibits the Commission from delegating to another state its authority to oversee and enforce compliance with the laws applicable to postsecondary educational institutions located in this State even if the institution is authorized by, or has its home in, another state.]~~ **Section 53** of this bill prohibits postsecondary educational institutions from refusing to provide transcripts to current or former students on the grounds that the student owes a debt to the institution and imposes certain limitations on the services that may be withheld from such students. **Section 54** of this bill imposes certain requirements on postsecondary educational institutions with respect to presentation of accurate information about the institution. **Section 54** also requires postsecondary educational institutions to timely notify the Commission on Postsecondary Education within the Employment Security Division of the Department of Employment, Training and Rehabilitation if ~~[it]~~ the institution becomes subject to an investigation by any other oversight entity. **Section 55** of this bill prohibits postsecondary educational institutions, and their agents, from engaging in certain practices in its efforts to recruit students. **Sections 52, 58 and 59** of this bill establish additional requirements on postsecondary educational institutions that primarily offer vocational education services. **Section 52** defines such institutions as postsecondary vocational institutions. ~~[and section 56 of this bill requires the Commission to establish certain minimum standards for private postsecondary vocational institutions that are in addition to those applicable to all postsecondary educational institutions. Section 57 of this bill authorizes and directs the Commission's actions if it determines that a postsecondary vocational institution or one of its programs is at risk of closure or termination.]~~ **Section 58** of this bill prohibits postsecondary vocational institutions from engaging in certain unfair business practices and provides that each violation of those prohibitions is subject to a civil penalty. **Section 59** of this bill provides that the rights, remedies and penalties established for violations of the provisions concerning postsecondary educational institutions are subject to any other rights, remedies or penalties that may exist at law or in equity.

Sections 60, 61, 63 and 64 of this bill make conforming changes.

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 47, 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 13, 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

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

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

10 Sec. 4. “Cosigner” means:

11 1. Any person who is liable for the obligation of another without
12 compensation, regardless of how the person is designated in the contract or
13 instrument with respect to that obligation, including, without limitation, an
14 obligation under a private education loan extended to consolidate a borrower’s
15 pre-existing private education loans. The term includes any person whose
16 signature is requested as a condition to grant credit or to forbear on collection.

17 2. As used in this section, the term does not include a spouse of an
18 individual described in subsection 1 whose signature is needed to perfect the
19 security interest in a loan.

20 Sec. 5. “License” means a license issued by the Commissioner pursuant to
21 this chapter.

22 Sec. 6. “Licensee” means a student loan servicer licensed by the
23 Commissioner pursuant to this chapter.

24 Sec. 7. 1. “Private education lender” means any person engaged in the
25 business of securing, making or extending private education loans, or any holder
26 of a private education loan.

27 2. To the extent that state law is not preempted by federal law, the term does
28 not include a:

29 (a) Federally chartered bank, savings bank, savings and loan association or
30 credit union;

31 (b) Wholly owned subsidiary of a federally chartered bank or credit union;
32 or

33 (c) Operating subsidiary if each owner of the operating subsidiary is wholly
34 owned by the same federally chartered bank or credit union.

35 Sec. 8. 1. “Private education loan” means an extension of credit that is:

36 (a) Extended to a consumer expressly, in whole or in part, for postsecondary
37 educational expenses, regardless of whether the loan is provided by the
38 educational institution that the student attends;

39 (b) Not made, insured or guaranteed under Title IV of the Higher Education
40 Act of 1965, 20 U.S.C. §§ 1070 et seq.

41 2. The term does not include an:

42 (a) Open-end credit or any loan that is secured by real property or a
43 dwelling; or

44 (b) Extension of credit in which the covered educational institution is the
45 creditor if:

46 (1) The term of the extension of credit is 90 days or less; or

47 (2) An interest rate is not applied to the credit balance and the term of
48 the extension of credit is 1 year or less, even if the credit is payable in more than
49 four installments.

50 Sec. 9. “Private education loan borrower” means any resident of this State
51 who has received or agreed to pay a private education loan for the borrower’s
52 own educational expenses.

1 **Sec. 10.** *“Student education loan” means any loan primarily for personal*
2 *use to finance education or other school-related expenses. The term includes a*
3 *private education loan.*

4 **Sec. 11.** *“Student loan borrower” means a:*

5 1. *Resident of this State who receives or agrees to pay a student education*
6 *loan; and*

7 2. *Person who shares responsibility with such a resident for repaying the*
8 *student education loan.*

9 **Sec. 12.** *“Student loan servicer” means any person, wherever located,*
10 *responsible for the servicing of any student education loan to any student loan*
11 *borrower. The term includes a licensee and a person who engages in student loan*
12 *servicing without a license pursuant to subsection 2 of section 15 of this act.*

13 **Sec. 13.** *“Student loan servicing” or “servicing” means:*

14 1. *Receiving any scheduled periodic payments from a student loan borrower*
15 *pursuant to the terms of a student education loan or any notification that a*
16 *student loan borrower made such a scheduled periodic payment and applying the*
17 *payments to the account of a student loan borrower, as may be required pursuant*
18 *to the terms of a student education loan or a contract governing the servicing of a*
19 *student education loan;*

20 2. *During a period in which no payment is required on a student education*
21 *loan, maintaining account records for a student education loan and*
22 *communicating with the student loan borrower on behalf of the owner of the*
23 *promissory note for the student education loan; or*

24 3. *Interacting with a student loan borrower concerning a student education*
25 *loan with the goal of helping the student loan borrower avoid default on the*
26 *student education loan or facilitating the activities described in subsection 1 or 2.*

27 **Sec. 14.** 1. *The Commissioner shall:*

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

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

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

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

38 **Sec. 15.** 1. *Except as otherwise provided in subsection 2, a person shall*
39 *not act as a student loan servicer, directly or indirectly, without first obtaining a*
40 *license from the Commissioner pursuant to this chapter.*

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

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

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

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

50 **Sec. 16.** *A person may apply for a license as a student loan servicer by*
51 *submitting a written application to the Commissioner on a form prescribed by the*
52 *Commissioner. The application must be accompanied by:*

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

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

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

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

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

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

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

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

24 6. A nonrefundable investigation fee of \$800; and

25 7. A surety bond in an amount determined by the Commissioner.

26 **Sec. 17.** 1. In addition to any other requirements set forth in this chapter:

27 (a) A natural person who applies for the issuance or renewal of a license as a
28 student loan servicer or, if the applicant is not a natural person, each control
29 person of the applicant, shall include the social security number of the applicant
30 or control person, as applicable, in the application submitted to the
31 Commissioner.

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

37 2. The Commissioner shall include the statement required pursuant to
38 subsection 1 in:

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

41 (b) A separate form prescribed by the Commissioner.

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

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

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

49 4. If an applicant or a control person indicates on the statement submitted
50 pursuant to subsection 1 that he or she is subject to a court order for the support
51 of a child and is not in compliance with the order or a plan approved by the
52 district attorney or other public agency enforcing the order for the repayment of
53 the amount owed pursuant to the order, the Commissioner shall advise the

1 applicant or control person, as applicable, to contact the district attorney or other
2 public agency enforcing the order to determine the actions that he or she may
3 take to satisfy the arrearage.

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

13 6. The Commissioner shall reinstate a license as a student loan servicer that
14 has been suspended by a district court pursuant to NRS 425.540 if the
15 Commissioner receives a letter issued by the district attorney or other public
16 agency pursuant to NRS 425.550 to the applicant or a control person of the
17 applicant stating that the applicant or control person, as applicable, has complied
18 with the subpoena or warrant or has satisfied the arrearage pursuant to NRS
19 425.560.

20 **Sec. 18.** 1. In addition to any other requirements set forth in this chapter,
21 a natural person who applies for the issuance or renewal of a license as a student
22 loan servicer or, if the applicant is not a natural person, each control person of
23 the applicant, shall submit to the Commissioner the statement prescribed by the
24 Division of Welfare and Supportive Services of the Department of Health and
25 Human Services pursuant to NRS 425.520.

26 2. The Commissioner shall include the statement required pursuant to
27 subsection 1 in:

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

30 (b) A separate form prescribed by the Commissioner.

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

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

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

38 4. If an applicant or a control person indicates on the statement submitted
39 pursuant to subsection 1 that he or she is subject to a court order for the support
40 of a child and is not in compliance with the order or a plan approved by the
41 district attorney or other public agency enforcing the order for the repayment of
42 the amount owed pursuant to the order, the Commissioner shall advise the
43 applicant or control person, as applicable, to contact the district attorney or other
44 public agency enforcing the order to determine the actions that he or she may
45 take to satisfy the arrearage.

46 5. If the Commissioner receives a copy of a court order issued pursuant to
47 NRS 425.540 that provides for the suspension of all professional, occupational
48 and recreational licenses, certificates and permits issued to an applicant or
49 control person, the Commissioner shall deem that license to be suspended at the
50 end of the 30th day after the date on which the court order was issued unless the
51 Commissioner receives a letter issued to the applicant or control person by the
52 district attorney or other public agency pursuant to NRS 425.550 stating that he

1 *or she has complied with the subpoena or warrant or has satisfied the arrearage*
2 *pursuant to NRS 425.560.*

3 *6. The Commissioner shall reinstate a license as a student loan servicer that*
4 *has been suspended by a district court pursuant to NRS 425.540 if the*
5 *Commissioner receives a letter issued by the district attorney or other public*
6 *agency pursuant to NRS 425.550 to the applicant or a control person of the*
7 *applicant stating that the applicant or control person, as applicable, has complied*
8 *with the subpoena or warrant or has satisfied the arrearage pursuant to NRS*
9 *425.560.*

10 **Sec. 19.** *Upon the filing of an application for an initial license and the*
11 *payment of the license fee and the investigation fee and submission of the surety*
12 *bond required by section 16 of this act, the Commissioner shall investigate the*
13 *financial condition and responsibility, financial and business experience,*
14 *character and general fitness of the applicant. The Commissioner may issue a*
15 *license if the Commissioner finds that:*

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

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

20 *3. If the applicant is:*

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

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

25 *(c) A corporation or association, the president, chairperson of the executive*
26 *committee, senior officer responsible for the corporation's business and chief*
27 *financial officer or any other person who performs similar functions as*
28 *determined by the Commissioner, each director, each trustee and each*
29 *shareholder owning 10 percent or more of each class of the securities of such*
30 *corporation is in all respects properly qualified and of good character; or*

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

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

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

39 *6. The applicant has paid the license fee and the investigation fee and*
40 *submitted the surety bond required by section 16 of this act; and*

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

43 **Sec. 20.** *1. A person seeking to act as a student loan servicer is exempt*
44 *from the application procedures described in subsections 1 to 4, inclusive, of*
45 *section 16 of this act upon a determination by the Commissioner that the person's*
46 *student loan servicing performed in this State is conducted pursuant to a contract*
47 *awarded by the United States Secretary of Education pursuant to 20 U.S.C. §*
48 *1087f. The Commissioner shall, by regulation, prescribe the procedure for*
49 *documenting a person's eligibility for this exemption.*

50 *2. Upon payment of the fees and the submission of the surety bond required*
51 *by section 16 of this act, the Commissioner shall:*

52 *(a) Issue a license to a person determined to be exempt pursuant to this*
53 *section; and*

(b) *Deem the person to have satisfied all requirements set forth in section 16 of this act.*

3. *A person issued a license pursuant to this section:*

(a) *Is exempt from the requirements of sections 17, 18 and 19 of this act; and*

(b) *Shall, except to the extent that those requirements are inconsistent with federal law, comply with all other applicable provisions of this chapter, including, without limitation, the record retention requirements set forth in section 28 of this act.*

4. *A person issued a license pursuant to this section shall provide the Commissioner with written notice within 7 days following notification of the expiration, revocation or termination of a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f. The person has 30 days following notification to satisfy all requirements established by section 16 of this act in order to continue to act as a student loan servicer. At the expiration of the 30-day period, if the requirements have not been satisfied, the Commissioner shall immediately suspend a license granted to the person pursuant to this section.*

5. *With respect to student loan servicing not conducted pursuant to a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f, nothing in this section prevents the Commissioner from issuing or filing a civil action for an order to temporarily or permanently bar a person from acting as a student loan servicer for violating applicable law.*

Sec. 21. 1. *A license issued pursuant to this chapter expires on December 31 of each year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to this chapter.*

2. *A licensee may renew the license by filing with the Commissioner an application containing all required documents and fees as set forth in section 16 of this act for an initial license. Such a renewal application shall be deemed to be timely filed if filed on or before November 1 of the year in which the license expires. Any renewal application filed with the Commissioner after November 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 based. The Commissioner may refuse to issue a renewed license on any ground on which the Commissioner may refuse to issue an initial license.*

3. *Annually, on or before April 15, each licensee shall file with the Commissioner a report of operations of the licensed business for the preceding calendar year under oath and on a form prescribed by the Commissioner.*

Sec. 22. 1. *Not later than 15 days after a licensee ceases to engage in the business of student loan servicing in this State for any reason, including, without limitation, 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 Commissioner and shall surrender to the Commissioner its license for each location in which the licensee has ceased to engage in such business.*

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

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

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

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

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

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

Sec. 27. 1. *Except as otherwise provided by federal law or regulation, a student loan servicer shall:*

(a) Respond to any written inquiry from a student loan borrower or the representative of a student loan borrower by:

(1) Acknowledging receipt of the inquiry within 10 business days; and

(2) Providing information relating to the inquiry, and, if applicable, the action the student loan servicer will take to correct the account or an explanation of the student loan servicer's position that the student loan borrower's account is correct, within 30 business days.

(b) Inquire of a student loan borrower how to apply an overpayment to a student education loan. A student loan borrower's instruction on how to apply an overpayment to a student education loan must stay in effect for any future overpayments during the term of the student education loan unless the student loan borrower provides different instructions. For the purposes of this paragraph, "overpayment" means a payment on a student education loan that is in excess of

1 *the monthly amount due from the student loan borrower on the student education*
2 *loan, commonly referred to as a prepayment.*

3 (c) *Apply a partial payment from a student loan borrower on a student*
4 *education loan in a manner that minimizes late fees and negative credit*
5 *reporting. If there are multiple loans on a student loan borrower's account at an*
6 *equal stage of delinquency, a student loan servicer shall satisfy the requirements*
7 *of this subsection by applying the partial payment to satisfy as many individual*
8 *loan payments as possible on the student loan borrower's account. For purposes*
9 *of this subsection, "partial payment" means a payment to a student education*
10 *loan account that contains multiple individual loans if the payment is in an*
11 *amount less than the amount necessary to satisfy the outstanding payment due on*
12 *all loans in the student education loan account, commonly referred to as an*
13 *"underpayment."*

14 2. *If the sale, assignment or other transfer of the servicing of a student*
15 *education loan results in a change in the identity of the person to whom a student*
16 *loan borrower is required to send payments or direct any communication*
17 *concerning the student education loan:*

18 (a) *As a condition of a sale, an assignment or any other transfer of the*
19 *servicing of a student education loan, require the new student loan servicer to*
20 *honor all benefits originally represented as available to the student loan borrower*
21 *during the repayment of the student education loan and preserve the availability*
22 *of those benefits, including, without limitation, any benefits for which the student*
23 *loan borrower has not yet qualified;*

24 (b) *Transfer to the new student loan servicer for the student education loan*
25 *all information regarding the student loan borrower, the account of the student*
26 *loan borrower and the student education loan of the student loan borrower. The*
27 *information must include, without limitation, the repayment status of the student*
28 *loan borrower and any benefits associated with the student education loan of the*
29 *student loan borrower; and*

30 (c) *Complete the transfer of information required by paragraph (b) within 45*
31 *calendar days after the sale, assignment or other transfer of the servicing of the*
32 *student education loan.*

33 3. *A student loan servicer who obtains the right to service a student*
34 *education loan shall adopt policies and procedures to verify that the student loan*
35 *servicer has received all information regarding the student loan borrower, the*
36 *account of the student loan borrower and the student education loan of the*
37 *student loan borrower including, without limitation, the repayment status of the*
38 *student loan borrower and any benefits associated with the student education*
39 *loan of the student loan borrower.*

40 4. *A student loan servicer shall evaluate a student loan borrower for*
41 *eligibility for an income-driven repayment program before placing the student*
42 *loan borrower in forbearance or default if an income-driven repayment program*
43 *is available to the student loan borrower.*

44 **Sec. 28.** 1. *A student loan servicer shall maintain a record of each*
45 *transaction relating to a student education loan for not less than 2 years*
46 *following the final payment on the student education loan or the assignment of*
47 *the student education loan, whichever occurs first, or such longer period as may*
48 *be required by any other provision of law.*

49 2. *Upon the request of the Commissioner, a person required to maintain*
50 *records pursuant to subsection 1 shall make such records available to the*
51 *Commissioner, or send the records to the Commissioner, in the manner required*
52 *by the Commissioner not later than 5 business days after requested by the*
53 *Commissioner. Upon the person's request, the Commissioner may allow*

1 *additional time to make the records available to the Commissioner or send the*
2 *records to the Commissioner.*

3 **Sec. 29.** *A student loan servicer shall not:*

4 *1. Directly or indirectly employ any scheme, device or artifice to defraud or*
5 *mislead a student loan borrower.*

6 *2. Engage in any unfair or deceptive practice toward any person or*
7 *misrepresent or omit any material information in connection with the servicing of*
8 *a student education loan, including, without limitation, misrepresenting the*
9 *amount, nature or terms of any fee or payment due or claimed to be due on a*
10 *student education loan, the terms and conditions of the loan agreement or the*
11 *student loan borrower's obligations under the loan.*

12 *3. Obtain property by fraud or misrepresentation.*

13 *4. Knowingly misapply student education loan payments to the outstanding*
14 *balance of a student education loan.*

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

17 *6. Fail to report both the favorable and unfavorable payment history of the*
18 *student loan borrower to a nationally recognized consumer credit bureau at least*
19 *annually if the student loan servicer regularly reports information to a credit*
20 *bureau.*

21 *7. Refuse to communicate with an authorized representative of the student*
22 *loan borrower if the authorized representative:*

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

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

27 *8. Negligently make any false statement or knowingly and willfully make*
28 *any omission of a material fact in connection with any information or reports*
29 *filed with a governmental agency or in connection with any investigation*
30 *conducted by the Commissioner or another governmental agency.*

31 *9. Fail to respond within 15 business days to communications from the*
32 *Commissioner, or within a shorter, reasonable period of time as may be requested*
33 *by the Commissioner.*

34 *10. Fail to respond within 15 business days to a consumer complaint*
35 *submitted to the student loan servicer by the Commissioner or the Office of the*
36 *Attorney General. If necessary, the student loan servicer may request additional*
37 *time to respond to the complaint, up to a maximum of 45 business days, provided*
38 *that the request is accompanied by an explanation of why additional time is*
39 *reasonable and necessary.*

40 *11. Engage in abusive acts or practices when servicing a student loan in*
41 *this State. An act or practice is abusive in connection with the servicing of a*
42 *student loan if that act or practice does either of the following:*

43 *(a) Materially interferes with the ability of a student loan borrower to*
44 *understand a term or condition of a student loan; or*

45 *(b) Takes unreasonable advantage of any of the following:*

46 *(1) A lack of understanding on the part of a student loan borrower of the*
47 *material risks, costs or conditions of the student loan;*

48 *(2) The inability of a student loan borrower to protect the interests of the*
49 *student loan borrower when selecting or using a student loan or feature, term or*
50 *condition of a student loan; or*

51 *(3) The reasonable reliance by the student loan borrower on a person*
52 *engaged in servicing a student loan to act in the interests of the student loan*
53 *borrower.*

1 **Sec. 30. 1. The Student Loan Ombudsman designated pursuant to NRS**
2 **226.560 or a member of the public may submit a complaint concerning a student**
3 **loan servicer to the Commissioner for investigation pursuant to section 37 of this**
4 **act.**

5 **2. The Division of Financial Institutions shall share a complaint submitted**
6 **pursuant to this section with the Office of the Attorney General in accordance**
7 **with section 49 of this act.**

8 **Sec. 31. 1. Before the extension of a private education loan that requires**
9 **a cosigner, a private education lender shall deliver to the cosigner information**
10 **concerning, without limitation:**

11 **(a) How the private education loan obligation will appear on the cosigner's**
12 **credit;**

13 **(b) How the cosigner will be notified if the private education loan becomes**
14 **delinquent;**

15 **(c) How the cosigner can cure a delinquency in order to avoid negative credit**
16 **furnishing and loss of cosigner release eligibility; and**

17 **(d) Eligibility of the cosigner to be released from his or her obligation on the**
18 **private education loan, including, without limitation, the number of on-time**
19 **payments and any other criteria required to approve the release of the cosigner**
20 **from his or her obligation on the private education loan.**

21 **2. For any private education loan that obligates a cosigner, a private**
22 **education lender shall provide the private education loan borrower and the**
23 **cosigner an annual written notice containing information about the release of the**
24 **cosigner from his or her obligation on the private education loan, including,**
25 **without limitation:**

26 **(a) Any administrative, non-judgmental criteria the private education lender**
27 **requires to approve the release of the cosigner from the private education loan**
28 **obligation; and**

29 **(b) The process for applying for cosigner release.**

30 **3. If the private education loan borrower has met the applicable payment**
31 **requirements to be eligible for cosigner release, the private education lender shall**
32 **send the private education loan borrower and the cosigner a written notification**
33 **by mail and by electronic mail, if the private education loan borrower or cosigner**
34 **has elected to receive electronic communications from the private education**
35 **lender, informing the private education loan borrower and cosigner that the**
36 **payment requirement to be eligible for cosigner release have been met. The**
37 **notification must also include information about any additional criteria to qualify**
38 **for cosigner release and the procedure to apply for cosigner release.**

39 **4. A private education lender shall provide written notice to a private**
40 **education loan borrower who applies for cosigner release but whose application**
41 **is incomplete. The written notice shall include a description of the information**
42 **needed to consider the application complete and the date by which the applicant**
43 **must furnish the missing information.**

44 **5. Within 30 days after a private education loan borrower submits a**
45 **completed application for cosigner release, the private education lender shall**
46 **send the private education loan borrower and cosigner a written notice that**
47 **informs the private education loan borrower and cosigner whether the cosigner**
48 **release application has been approved or denied. If the private education lender**
49 **denies a request for cosigner release, the private education loan borrower may**
50 **request any documents or information used in the determination, including,**
51 **without limitation, the credit score threshold used by the private education lender,**
52 **the private education loan borrower's consumer credit report, the private**
53 **education loan borrower's credit score and any other documents specific to the**

1 *private education loan borrower. The private education lender shall also provide*
2 *any notices of adverse action required under applicable federal law if the denial*
3 *is based in whole or in part on any information contained in a consumer credit*
4 *report.*

5 *6. In response to a written or oral request for cosigner release, a private*
6 *education lender shall provide the information described in subsection 2.*

7 *7. A private education lender shall not impose any restriction that*
8 *permanently bars a private education loan borrower from qualifying for cosigner*
9 *release, including, without limitation, restricting the number of times a private*
10 *education loan borrower may apply for cosigner release.*

11 *8. A private education lender shall not impose any negative consequences*
12 *on any private education loan borrower or cosigner during the 60 days following*
13 *the issuance of the notice provided pursuant to subsection 4 or until the private*
14 *education lender makes a final determination about a private education loan*
15 *borrower's cosigner application for release. For the purposes of this subsection,*
16 *"negative consequences" includes, without limitation, the imposition of*
17 *additional eligibility criteria, negative credit reporting, lost eligibility for cosigner*
18 *release, late fees, interest capitalization or other financial injury.*

19 *9. A private education lender shall not require more than 12 consecutive,*
20 *on-time payments as criteria for cosigner release. Any private education loan*
21 *borrower who has paid the equivalent of 12 months of principal and interest*
22 *payments within any 12-month period shall be deemed to have satisfied the*
23 *consecutive, on-time payment requirement, even if the private education loan*
24 *borrower has not made payments monthly during the 12-month period.*

25 *10. If a private education loan borrower or cosigner requests a change in*
26 *terms that restarts the count of consecutive, on-time payments required for*
27 *cosigner release, the private education lender shall notify the private education*
28 *loan borrower and cosigner in writing of the impact of the change and provide*
29 *the private education loan borrower or cosigner the right to withdraw or reverse*
30 *the request to avoid that impact.*

31 *11. A private education loan borrower has the right to request an appeal of*
32 *a private education lender's determination to deny a request for cosigner release,*
33 *and the private education lender shall permit the private education loan borrower*
34 *to submit additional documentation evidencing the private education loan*
35 *borrower's ability, willingness and stability to meet the payment obligations. The*
36 *private education loan borrower may request review of the determination made*
37 *regarding cosigner release by another employee of the private education lender.*

38 *12. A private education lender shall establish and maintain a*
39 *comprehensive record management system reasonably designed to ensure the*
40 *accuracy, integrity and completeness of data and other information about*
41 *cosigner release applications and to ensure compliance with applicable state and*
42 *federal laws, including, without limitation, the federal Equal Credit Opportunity*
43 *Act, 15 U.S.C. §§ 1691 et seq., and the Fair Credit Reporting Act, 15 U.S.C. §§*
44 *1681 et seq. This system must include the number of cosigner release applications*
45 *received, the approval and denial rate and the primary reasons for any denial.*

46 *13. A private education lender shall provide a cosigner with access to all*
47 *documents or records related to the cosigned private education loan that are*
48 *available to the private education loan borrower.*

49 *14. If a private education lender provides electronic access to documents*
50 *and records for a private education loan borrower, the private education lender*
51 *shall provide equivalent electronic access to the cosigner.*

52 **Sec. 32.** *1. A private education loan made on or after January 1, 2022,*
53 *may not include a provision that allows the private education lender to accelerate,*

1 *in whole or in part, payments on the private education loan, except in cases of*
2 *payment default. A private education lender shall not place any loan or account*
3 *into default or accelerate a loan for any reason, other than for payment default.*

4 2. *A private education loan made before January 1, 2022, may permit the*
5 *private education lender to accelerate payments only if the promissory note or*
6 *loan agreement explicitly authorizes an acceleration and only for the reasons*
7 *stated in the note or agreement.*

8 3. *In the event of the death or bankruptcy of a cosigner:*

9 (a) *The private education lender must not attempt to collect against the*
10 *cosigner's estate or bankruptcy estate, other than for payment default.*

11 (b) *Upon receiving notification of the death or bankruptcy of a cosigner,*
12 *when the private education loan is not more than 60 days delinquent at the time*
13 *of the notification, the private education lender shall not change any terms or*
14 *benefits under the promissory note, repayment schedule, repayment terms or*
15 *monthly payment amount or any other provision associated with the loan.*

16 4. *A private education lender shall not place any private education loan or*
17 *account into default or accelerate a private education loan while a private*
18 *education loan borrower is seeking a loan modification or enrollment in a*
19 *flexible repayment plan, except that a private education lender may place a loan*
20 *or account into default or accelerate a loan for payment default 90 days following*
21 *the private education loan borrower's default.*

22 **Sec. 33.** 1. *A private education lender, when notified of the total and*
23 *permanent disability of a private education loan borrower or cosigner, shall*
24 *release any cosigner from the obligations of the cosigner under a private*
25 *education loan. The private education lender shall not attempt to collect a*
26 *payment from a cosigner following a notification of total and permanent*
27 *disability of the private education loan borrower or cosigner.*

28 2. *A private education lender shall notify a private education loan borrower*
29 *and cosigner for a private education loan if either a private education loan*
30 *borrower or cosigner is released from the obligations of the private education*
31 *loan under this section, within 30 days of the release.*

32 3. *A private education lender that extends a private education loan shall*
33 *provide the private education loan borrower an option to designate an individual*
34 *to have the legal authority to act on behalf of the private education loan borrower*
35 *with respect to the loan in the event of the total and permanent disability of the*
36 *private education loan borrower.*

37 4. *If a cosigner is released from the obligations of a private education loan*
38 *pursuant to section 31 of this act:*

39 (a) *The private education lender shall not require the private education loan*
40 *borrower to obtain another cosigner on the private education loan obligation.*

41 (b) *The private education lender shall not declare a default or accelerate the*
42 *debt against the private education loan borrower on the sole basis of the release*
43 *of the cosigner from the private education loan obligation.*

44 5. *A private education lender, if notified of the total and permanent*
45 *disability of a private education loan borrower:*

46 (a) *Shall discharge the liability of the private education loan borrower and*
47 *cosigner on the private education loan; and*

48 (b) *Shall not:*

49 (1) *Attempt to collect on the outstanding liability of the private education*
50 *loan borrower or cosigner; or*

51 (2) *Monitor the disability status of the private education loan borrower at*
52 *any point after the date of discharge.*

6. As used in this section, “total and permanent disability” is the condition of an individual who:

(a) Has been determined by the United States Secretary of Veterans Affairs to be unemployable due to a service-connected disability; or

(b) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 12 months or can be expected to last for a continuous period of not less than 12 months.

Sec. 34. 1. A private education lender shall, before offering a person a private education loan that is being used to refinance an existing private education loan, provide to the person a disclosure that informs the person that benefits and protections applicable to the existing private education loan may be lost due to the refinancing. The information must be provided on a one-page information sheet in at least 12-point font and must be written in simple, clear, understandable and easily readable language.

2. If a private education lender offers any private education loan borrower flexible repayment options in connection with a private education loan, those flexible repayment options must be made available to all private education loan borrowers of loans by the private education lender. A private education lender shall:

(a) Provide on its Internet website a description of any flexible repayment options offered by the private education lender for private education loans;

(b) Establish and consistently implement policies and procedures that facilitate the evaluation of private education loan flexible repayment option requests, including, without limitation, policies and procedures that provide accurate information regarding any private education loan flexible repayment option that:

(1) May be available to the private education loan borrower through the promissory note; or

(2) May have been marketed to the private education loan borrower through marketing materials; and

(c) If the private education lender offers flexible repayment options, consistently present and offer similar options to private education loan borrowers with similar financial circumstances; and

(d) Annually issue a letter to the private education loan borrower and cosigner that sets forth, without limitation:

(1) The total cumulative principal and interest amount of all private education loans owed by the private education loan borrower or cosigner to the private education lender;

(2) The total payoff amount of the loans listed in subparagraph (1); and

(3) Estimated monthly payment amounts if the private education loan borrower or cosigner were to enroll in a flexible repayment plan offered by the private education lender.

Sec. 35. A private education lender shall not:

1. Offer any private education loan that does not comply with the provisions of sections 31 to 34, inclusive, of this act, or that is in violation of any other state or federal law.

2. Engage in any unfair, deceptive or abusive act or practice.

3. Make a private education loan upon the security of any assignment of or order for the payment of any salary, wages, commissions or other compensation for services earned, or to be earned. No assignment or order to secure a private education loan may be taken by a private education lender in connection with a private education loan, or for the enforcement or repayment thereof. Any

1 *assignment or order taken or given to secure any loan made by any lender*
2 *pursuant to sections 31 to 35, inclusive, of this act is void.*

3 4. *Make, advertise, print, display, publish, distribute, electronically*
4 *transmit, telecast or broadcast in any manner any statement or representation*
5 *that is false, misleading or deceptive.*

6 **Sec. 36.** *A private education lender shall:*

7 1. *Establish and maintain records and permit the Division of Financial*
8 *Institutions to access and copy any records required to be maintained pursuant to*
9 *the provisions of this chapter; and*

10 2. *Retain a loan file, including, without limitation, any record specified for*
11 *retention by regulations adopted by the Commissioner, for not less than 6 years*
12 *after the termination of the private education loan account.*

13 **Sec. 36.5.** *Sections 31 to 36.5, inclusive, of this bill do not exempt a private*
14 *education lender from complying with any requirement to obtain a license*
15 *imposed by any other specific statute, including, without limitation, the provisions*
16 *of chapter 675 of NRS. The Commissioner shall determine the particular license*
17 *that a private education lender is required to obtain.*

18 **Sec. 37.** *In addition to any other authority provided under this title, the*
19 *Commissioner may conduct investigations and examinations as follows:*

20 1. *For purposes of initial licensing, license renewal, license suspension,*
21 *license revocation or termination or general or specific inquiry or investigation to*
22 *determine compliance with this chapter, the Commissioner may access, receive*
23 *and use any books, accounts, records, files, documents, information or evidence,*
24 *including, without limitation:*

25 (a) *Criminal, civil and administrative history information;*

26 (b) *Personal history and experience information, including, without*
27 *limitation, independent credit reports obtained from a consumer reporting agency*
28 *described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a;*
29 *and*

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

33 2. *For the purposes of investigating violations or complaints arising under*
34 *this chapter or for the purposes of examination, the Commissioner may review,*
35 *investigate or examine any student loan servicer or other person subject to this*
36 *chapter as often as necessary in order to carry out the purposes of this chapter.*
37 *The Commissioner may direct, subpoena or order the attendance of and examine*
38 *under oath any person whose testimony may be required regarding a student*
39 *education loan, the business of a student loan servicer or the subject matter of*
40 *any examination or investigation, and may direct, subpoena or order such a*
41 *person to produce books, accounts, records, files and any other documents the*
42 *Commissioner deems relevant to the inquiry.*

43 3. *In making any examination or investigation authorized by this section,*
44 *the Commissioner may control access to any documents and records of a student*
45 *loan servicer or other person under examination or investigation. The*
46 *Commissioner may take possession of the documents and records or place a*
47 *person in exclusive charge of the documents and records in the place where they*
48 *are usually kept. During the period of control, a person shall not remove or*
49 *attempt to remove any of the documents and records except pursuant to a court*
50 *order or with the consent of the Commissioner. Unless the Commissioner has*
51 *reasonable grounds to believe the documents or records of the student loan*
52 *servicer or other person under examination or investigation have been, or are at*
53 *risk of being, altered or destroyed for purposes of concealing a violation of this*

chapter, the student loan servicer, the other person under examination or investigation or the owner of the documents and records must be allowed access to the documents or records as necessary to conduct ordinary business affairs.

4. At least once each year, the Commissioner or his or her authorized representative shall conduct an investigation and examination of each licensee pursuant to this section.

5. In addition to the fees prescribed in section 16, if it becomes necessary to examine or investigate the books and records of a licensee pursuant to this chapter, the licensee shall be liable for and shall pay to the Commissioner, within 30 days after the presentation of an itemized statement therefor, an amount determined by the Commissioner at the rate for supervision and examination of a financial institution established and, if applicable, adjusted pursuant to NRS 658.101.

Sec. 37.5. Each licensee shall pay, in addition to any other assessment, fee or cost required pursuant to this chapter:

1. The assessment levied pursuant to NRS 658.055 to cover all the costs related to the employment by the Commissioner of a certified public accountant and the performance by the certified public accountant of independent audits and examinations; and

2. The assessment levied pursuant to NRS 658.098 to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions.

Sec. 38. To carry out the purposes of this chapter, the Commissioner may:

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

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

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

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

5. Accept audit reports made by an independent certified public accountant for a student loan servicer or other person under examination or investigation 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 any report of examination, report of investigation or other writing of the Commissioner.

Sec. 39. The authority of the Commissioner pursuant to this chapter with regard to a student loan servicer or other person under examination or investigation remains in effect, without regard to whether the student loan servicer or other person acts or claims to act under any other licensing or registration law of this State, or claims to act without such authority.

Sec. 40. A student loan servicer or other person under examination or investigation pursuant to this chapter shall not knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information related to an investigation or examination pursuant to this chapter.

1 **Sec. 41.** *The Commissioner may, as applicable, deny an application for a*
2 *license issued pursuant to this chapter or suspend, revoke or refuse to renew a*
3 *license issued pursuant to this chapter if the Commissioner finds that:*

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

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

10 3. *The licensee has failed to pay, within 30 days after receiving an itemized*
11 *statement or other demand for payment from the Commissioner, any assessment,*
12 *fee or cost required pursuant to this chapter.*

13 **Sec. 42.** *All fees paid pursuant to this chapter are nonrefundable,*
14 *including, without limitation, if a license is surrendered, revoked or suspended*
15 *before the expiration of the period for which it was issued.*

16 **Sec. 43.** *A student loan servicer shall comply with all applicable federal*
17 *laws and regulations relating to student loan servicing, including, without*
18 *limitation, the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and the*
19 *regulations promulgated thereunder. In addition to any other remedies provided*
20 *by law, a violation of any such federal law or regulation shall be deemed a*
21 *violation of this chapter and a basis upon which the Commissioner may take*
22 *action pursuant to this chapter.*

23 **Sec. 44.** 1. *A person who suffers damage as a result of the failure of a*
24 *student loan servicer to comply with section 43 of this act may bring an action on*
25 *his or her own behalf and on behalf of a similarly situated class of persons*
26 *against that student loan servicer to recover or obtain:*

27 (a) *Actual damages, but in no case may the total award be less than \$500 per*
28 *plaintiff, per violation;*

29 (b) *An order enjoining the methods, acts or practices;*

30 (c) *Restitution of property;*

31 (d) *Punitive damages;*

32 (e) *Attorney's fees; and*

33 (f) *Any other relief that the court deems proper.*

34 2. *In addition to any other remedies provided by this section or otherwise*
35 *provided by law, whenever it is proven by a preponderance of the evidence that a*
36 *student loan servicer has engaged in conduct that substantially interferes with a*
37 *student loan borrower's right to a flexible payment arrangement, forgiveness,*
38 *cancellation, discharge of a loan or any other financial benefit as established*
39 *under the terms of a student loan borrower's promissory note or under the*
40 *Higher Education Act of 1965, 20 U.S.C. § 1070a et seq., and the regulations*
41 *promulgated thereunder, the court shall award treble actual damages to the*
42 *plaintiff, but in no case may the total award of damages be less than \$1,500 per*
43 *plaintiff, per violation.*

44 3. *A person claiming loss in connection with tuition or fees as a result of an*
45 *unfair business practice by a student loan servicer may file a complaint with the*
46 *Student Loan Ombudsman designated by the State Treasurer pursuant to NRS*
47 *226.560. The complaint must set forth the alleged violation and include any*
48 *information required by the Student Loan Ombudsman.*

49 **Sec. 45.** 1. *A violation of any provision of this chapter may also be a*
50 *violation of chapter 598B of NRS, the Nevada Equal Credit Opportunity Law.*

51 2. *In addition to any other remedies provided by this section or otherwise*
52 *provided by law, whenever it is proven by a preponderance of the evidence in a*
53 *civil action that a person or entity that makes a student education loan, including,*

1 *without limitation, a private education lender, has filed information required*
 2 *pursuant to this chapter that is false, the court shall award treble damages to the*
 3 *student loan borrower, including, without limitation, a private education loan*
 4 *borrower, but in no case may the total award of damages in action be less than*
 5 *\$1,500.*

6 *3. The rights, remedies and penalties provided by this chapter are*
 7 *cumulative and do not abrogate and are in addition to any other rights, remedies*
 8 *and penalties that may exist at law or in equity.*

9 **Sec. 45.5.** *Except as otherwise provided in this section and NRS 239.0115,*
 10 *any books, records, computer records or other information obtained by the*
 11 *Division in connection with an application, complaint, audit, investigation or*
 12 *examination pursuant to this chapter or in response to a subpoena are*
 13 *confidential and may be disclosed only to:*

14 *1. The Division, any authorized employee or representative of the Division*
 15 *and any state or federal agency investigating the activities covered under the*
 16 *provisions of this chapter; and*

17 *2. Any person if the Commissioner, in his or her discretion, determines that*
 18 *the interests of the public that would be protected by disclosure outweigh the*
 19 *interest of any person in the confidential information not being disclosed.*

20 **Sec. 46.** *The Attorney General may bring an action in the name of the*
 21 *people of this State to restrain or prevent any violation of this chapter or any*
 22 *continuance of any such violation.*

23 **Sec. 47.** *The Commissioner shall adopt any regulations necessary to carry*
 24 *out the provisions of this chapter.*

25 **Sec. 48.** NRS 657.005 is hereby amended to read as follows:

26 657.005 As used in chapters 657 to 671, inclusive, of NRS, *and sections 2 to*
 27 *47, inclusive, of this act*, unless the context otherwise requires, the words and terms
 28 defined in NRS 657.016 to 657.085, inclusive, have the meanings ascribed to them
 29 in those sections.

30 **Sec. 48.5.** NRS 658.098 is hereby amended to read as follows:

31 658.098 1. On a quarterly or other regular basis, the Commissioner shall
 32 collect an assessment pursuant to this section from each:

33 (a) Check-cashing service or deferred deposit loan service that is supervised
 34 pursuant to chapter 604A of NRS;

35 (b) Collection agency that is supervised pursuant to chapter 649 of NRS;

36 (c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

37 (d) Trust company or family trust company that is supervised pursuant to
 38 chapter 669 or 669A of NRS;

39 (e) Person engaged in the business of selling or issuing checks or of receiving
 40 for transmission or transmitting money or credits that is supervised pursuant to
 41 chapter 671 of NRS;

42 (f) Savings and loan association or savings bank that is supervised pursuant to
 43 chapter 673 of NRS;

44 (g) Person engaged in the business of lending that is supervised pursuant to
 45 chapter 675 of NRS;

46 (h) Thrift company that is supervised pursuant to chapter 677 of NRS; ~~and~~

47 (i) Credit union that is supervised pursuant to chapter 672 of NRS ~~and~~;

48 (j) Consumer litigation funding company that is supervised pursuant to chapter
 49 604C of NRS ~~and~~; *and*

50 (k) *Student loan servicer that is supervised pursuant to the chapter consisting*
 51 *of sections 2 to 47, inclusive, of this act.*

52 2. The Commissioner shall determine the total amount of all assessments to
 53 be collected from the entities identified in subsection 1, but that amount must not

exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 49. Chapter 226 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Student Loan Ombudsman shall make all complaints received pursuant to NRS 226.570 available to the Office of the Attorney General.

2. The Student Loan Ombudsman and the Attorney General shall enter into an information sharing agreement for the sharing of complaints between offices.

Sec. 50. NRS 226.500 is hereby amended to read as follows:

226.500 As used in NRS 226.500 to 226.590, inclusive, *and section 49 of this act*, unless the context otherwise requires, the words and terms defined in NRS 226.510 to 226.550, inclusive, have the meanings ascribed to them in those sections.

Sec. 50.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,

293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351,
333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240,
360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160,
368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,
388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365,
391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325,
392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447,
394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115,
408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749,
422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205,
432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840,
439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220,
441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773,
447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164,
453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
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482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469,
484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,
624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214,
634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485,
639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620,
640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191,
641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800,
642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060,
645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320,
645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275,
669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370,
677.243, *section 45.5 of this act*, 678A.470, 678C.710, 678C.800, 679B.122,
679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
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686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480,
688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196,
704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of
chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of
Nevada 2013 and unless otherwise declared by law to be confidential, all public
books and public records of a governmental entity must be open at all times during
office hours to inspection by any person, and may be fully copied or an abstract or
memorandum may be prepared from those public books and public records. Any
such copies, abstracts or memoranda may be used to supply the general public with
copies, abstracts or memoranda of the records or may be used in any other way to
the advantage of the governmental entity or of the general public. This section does
not supersede or in any manner affect the federal laws governing copyrights or

1 enlarge, diminish or affect in any other manner the rights of a person in any written
2 book or record which is copyrighted pursuant to federal law.

3 2. A governmental entity may not reject a book or record which is
4 copyrighted solely because it is copyrighted.

5 3. A governmental entity that has legal custody or control of a public book or
6 record shall not deny a request made pursuant to subsection 1 to inspect or copy or
7 receive a copy of a public book or record on the basis that the requested public
8 book or record contains information that is confidential if the governmental entity
9 can redact, delete, conceal or separate, including, without limitation, electronically,
10 the confidential information from the information included in the public book or
11 record that is not otherwise confidential.

12 4. If requested, a governmental entity shall provide a copy of a public record
13 in an electronic format by means of an electronic medium. Nothing in this
14 subsection requires a governmental entity to provide a copy of a public record in an
15 electronic format or by means of an electronic medium if:

16 (a) The public record:

17 (1) Was not created or prepared in an electronic format; and

18 (2) Is not available in an electronic format; or

19 (b) Providing the public record in an electronic format or by means of an
20 electronic medium would:

21 (1) Give access to proprietary software; or

22 (2) Require the production of information that is confidential and that
23 cannot be redacted, deleted, concealed or separated from information that is not
24 otherwise confidential.

25 5. An officer, employee or agent of a governmental entity who has legal
26 custody or control of a public record:

27 (a) Shall not refuse to provide a copy of that public record in the medium that
28 is requested because the officer, employee or agent has already prepared or would
29 prefer to provide the copy in a different medium.

30 (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare
31 the copy of the public record and shall not require the person who has requested the
32 copy to prepare the copy himself or herself.

33 **Sec. 51.** Chapter 394 of NRS is hereby amended by adding thereto the
34 provisions set forth as sections 52 to 59, inclusive, of this act.

35 **Sec. 52.** *“Postsecondary vocational institution” means a postsecondary*
36 *educational institution that offers postsecondary education that does not result in*
37 *a student earning a degree at a college or university and that is primarily for the*
38 *purpose of instructing, training or preparing persons for a vocation or*
39 *profession.*

40 **Sec. 53. 1. Notwithstanding any provision of law, a postsecondary**
41 **educational institution shall not:**

42 (a) *Refuse to provide a transcript for a current or former student on the*
43 *grounds that the student owes a debt;*

44 (b) *Condition the provision of a transcript on the payment of a debt, other*
45 *than a fee charged to provide the transcript;*

46 (c) *Charge a higher fee for obtaining a transcript, or provide less favorable*
47 *treatment of a transcript request because a student owes a debt; or*

48 (d) *Use transcript issuance as a tool for debt collection.*

49 **2. A postsecondary educational institution shall adopt policies and rules**
50 **providing for:**

51 (a) *The withholding of institutional services from students or former students*
52 *who have been notified in writing at the student's or former student's last known*

address that they are in default on a loan or loans under the Federal Family Education Loan Program, 20 U.S.C. §§ 1071 to 1087-4, inclusive.

(b) The services otherwise withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to the governing board of the postsecondary educational institution ~~for Commission~~ and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the postsecondary educational institution. The policies and rules must specify the services that may be withheld from the student, including, without limitation:

(1) The provision of grades; or

(2) The provision of a diploma or certificate.

↪ The policies and rules must not authorize the withholding of registration privileges or transcripts.

3. A guarantor, or person acting as the agent or otherwise acting under the control of the guarantor or agent, who provides information to a postsecondary educational institution pursuant to this section, shall defend, indemnify and hold harmless the governing board of the postsecondary educational institution from a civil or administrative action resulting from compliance with this section if the action arises as a result of incorrect, misleading or untimely information provided to the postsecondary educational institution by the guarantor, agent, or person acting under the control of the guarantor or agent.

4. If a student transfers from one postsecondary educational institution to another within this State, the appropriate records or a copy thereof shall be transferred by the former postsecondary educational institution upon a request from the student. Any postsecondary educational institution making a transfer of these records shall notify the student of the student's right to receive a copy of the record and the student's right to a hearing to challenge the content of the record.

~~5. [The Commission may adopt regulations concerning the transfer of the records described in subsection 4 to, from or between postsecondary educational institutions licensed to operate in this State.~~

~~6.]~~ For the purposes of this section, "default" means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay if this failure persists:

(a) For 180 days if the loan is repayable in monthly installments; or

(b) For 240 days if the loan is repayable in installments that are less frequent than monthly.

~~7.]~~ 6. As used in this section, "debt" means any money, obligation, claim or sum due or owing, or alleged to be due or owing, from a student. The term does not include the fee, if any, charged to the student for the actual costs of providing a transcript.

Sec. 54. A postsecondary educational institution authorized to operate pursuant to this chapter shall:

1. Present data about its completion rates, employment rates, loan or indebtedness metrics or its graduates' median hourly or annual earnings that is consistent with any applicable data published by the Commission or the United States Department of Education.

2. Disclose to the Commission any pending investigations by an oversight entity, including, without limitation, the nature of that investigation, within 30 days after the postsecondary educational institution's first knowledge of the investigation. For the purposes of this subsection:

(a) "Investigation" means any inquiry into possible violations of any applicable laws or accreditation standards.

(b) "Oversight entity" means:

(1) Any federal or state entity that provides financial aid to students of the institution or approves the institution for participation in a financial aid program.

(2) The Attorney General of the United States, the Office of the Attorney General of the State of Nevada or the United States Department of Justice.

(3) If applicable, any regulator that approves the operation of the postsecondary vocational institution.

(4) The Consumer Financial Protection Bureau or the Securities and Exchange Commission.

(5) Any accrediting agency.

Sec. 55. A postsecondary educational institution or its agent shall not:

1. Provide a prospective student with any testimonial, endorsement or other information that a reasonable person would find is likely to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, post-graduation employment by industry, probable earnings in the occupation for which the education was designed, the likelihood of obtaining financial aid or low-interest loans for tuition or the ability of graduates to repay loans;

2. Use any official United States military logo in advertising or promotional materials; or

3. Engage in any practice regarding the sale of, or inducing students to obtain, specific consumer student loan products to fund education that provides a financial benefit to any person or entity that has an ownership interest in the postsecondary educational institution, unless the postsecondary educational institution can demonstrate to the Commission that the student has exhausted all federal aid options and has been denied noninstitutional private commercial loan products. The prohibition in this subsection applies to any postsecondary educational institution authorized to operate by the Commission, and any agent of the postsecondary educational institution, that has not less than 150 students enrolled in this State in any given year, or that has been operating in the State for less than 2 consecutive years. For the purposes of this subsection:

(a) "Agent" means any employee, officer or contractor working on behalf of the postsecondary educational institution.

(b) "Financial benefit" does not include merely having an interest in students with loans enrolling in the postsecondary educational institution or assisting students with financial aid matters.

Sec. 56. ~~[(1. In addition to the minimum standards for postsecondary educational institutions required pursuant to NRS 394.251, the Commission shall establish minimum standards for applicants for a license to operate a private postsecondary vocational institution, or for an agent's permit. The minimum standards must require a private postsecondary vocational institution to:~~

~~(a) Disclose to the Commission information about its ownership and financial position and to demonstrate that the private postsecondary vocational institution is financially viable and responsible and that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the Commission shall not be subject to public disclosure.~~

~~(b) Follow the most stringent applicable cancellation and refund policy, as specified by the Commission.~~

~~(c) Disclose to students through use of a school catalog, Internet website, brochure or other written material necessary information so that students may~~

~~make informed enrollment decisions. The Commission shall specify what data and information are required to be discussed pursuant to this paragraph. To the extent that these Internet websites or materials present any data on the completion rates, employment rates, loan or indebtedness metrics and its graduates' median hourly and annual earnings for the private postsecondary vocational institution or its programs, the posted data must be consistent with any applicable data published by the Commission or United States Department of Education.~~

~~(d) Use an enrollment contract or agreement that includes, without limitation:~~

~~(1) The cancellation and refund policy of the private postsecondary educational institution;~~

~~(2) A brief statement that the private postsecondary educational institution is licensed pursuant to this chapter and that inquiries, concerns or complaints may be made to the Commission;~~

~~(3) Other necessary information as determined by the Commission;~~

~~(e) Describe accurately and completely in writing to students before their enrollment the prerequisites and requirements for:~~

~~(1) Successful completion of the programs of study in which they are interested;~~

~~(2) Qualifying for the fields of employment for which their education is designed;~~

~~(f) Discuss with each prospective student the prospective student's obligations in signing any enrollment contract or incurring any debt for educational purposes. If applicable, the discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given the employment opportunities and average starting salaries in the prospective student's chosen field of employment.~~

~~(g) Ensure that any enrollment contract between the private postsecondary vocational institution and a student has an attachment in a format provided by the Commission. The attachment must be signed by both the private postsecondary educational institution and the student. The attachment must stipulate, without limitation, that:~~

~~(1) The private postsecondary educational institution has complied with paragraph (f);~~

~~(2) The student understands and accepts his or her responsibilities in signing any enrollment contract or debt application;~~

~~(3) The enrollment contract is not binding for at least 5 business days immediately following the signature of the enrollment contract by both parties.~~

~~2. A private postsecondary vocational institution that has not less than 150 students enrolled in this State during any given year, has been operating in this State for less than 2 consecutive years or has not had at least one of its programs recognized by the Commission as an eligible training provider for at least 2 consecutive years may not engage in any practice regarding the sale of, or inducing students to obtain, specific consumer student loan products to fund education that provide a financial benefit to any person or entity that has an ownership interest in the private postsecondary educational institution, unless the postsecondary educational institution can demonstrate to the Commission that the student has exhausted all federal aid options and has been denied noninstitutional private commercial loan products. As used in this subsection, "financial benefit" does not include merely having an interest in students with loans enrolling in the private postsecondary vocational institution or assisting students with financial aid matters.~~

~~3. The Commission may deny a private postsecondary vocational institution's application for licensure if the private postsecondary vocational institution fails to meet the requirements in this section.~~ (Deleted by amendment.)

Sec. 57. ~~1. The Commission may determine that a licensed postsecondary vocational institution or a particular program of a postsecondary vocational institution is at risk of closure or termination if:~~

~~(a) There is a pattern or history of substantiated student complaints filed with the Commission; or~~

~~(b) The postsecondary vocational institution fails to meet minimum licensing requirements established by the Commission or has a pattern or history of failing to meet the minimum licensing requirements.~~

~~2. If the Commission determines that a postsecondary vocational institution or a particular program is at risk of closure or termination, the Commission shall require the postsecondary vocational institution to take corrective action.~~ (Deleted by amendment.)

Sec. 58. 1. A postsecondary vocational institution or an agent shall not engage in an unfair business practice, including, without limitation:

(a) Failing to comply with the terms of a student enrollment contract or agreement;

(b) Using an enrollment contract form, catalog, brochure or similar written material affecting the terms and conditions of student enrollment other than that previously submitted to the Commission and authorized for use;

(c) Advertising in the "help wanted" section of a newspaper or otherwise represent falsely, directly or by implication, that the postsecondary vocational institution is an employment agency, is making an offer of employment or otherwise is attempting to conceal the fact that what is being represented are course offerings of a postsecondary vocational institution;

(d) Representing falsely, directly or by implication, that an educational program is approved by a particular industry or that successful completion of the program qualifies a student for admission to a labor union or similar organization or for the receipt of a state license in any business, occupation or profession;

(e) Representing falsely, directly or by implication, that a student who successfully completes a course or program of instruction may transfer credit for the course or program to any institution of higher education;

(f) Representing falsely, directly or by implication, in advertising or in any other manner the postsecondary vocational institution's size, location, facilities, equipment, faculty qualifications, number of faculty or the extent or nature of any approval received from an accrediting association;

(g) Representing falsely, directly or by implication, the probable total cost to obtain a diploma or certificate;

(h) Representing that the postsecondary vocational institution is approved, recommended or endorsed by the State or the Commission, except the fact that the postsecondary vocational institution is licensed to operate pursuant to this chapter may be stated if true;

(i) Providing a prospective student with:

(1) Any testimonial, endorsement or other information that a reasonable person would find likely to mislead or deceive prospective students or the public, including, without limitation, those regarding current practices of the postsecondary vocational institution;

(2) Information regarding rates of completion or post-graduation employment, or its graduates' median hourly or annual earnings, that is not

consistent with any applicable data published by the Commission or the United States Department of Education;

(3) Current conditions for employment opportunities;

(4) Post-graduation employment by industry or probable earnings in the occupation for which the education was designed;

(5) The acceptance of a diploma or certificate by employers as a qualification for employment;

(6) The acceptance of courses, a diploma or a certificate by any institution of higher education;

(7) The likelihood of obtaining financial aid or low-interest loans for tuition; and

(8) The ability of graduates to repay loans;

(j) Designating or referring to a sales or admissions representative as a "counselor," an "advisor" or a similar term that may have the tendency to mislead or deceive a prospective student or the public regarding the authority or qualifications of the sales representative;

(k) Making or causing to be made any statement or representation in connection with the offering of education if the postsecondary vocational institution or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate or misleading;

(l) Engaging in methods of advertising, sales, collection, credit or other business practices that are false, deceptive, misleading or unfair, as determined by the Commission;

(m) Attempting to recruit students in or within 40 feet of a building that contains a welfare or unemployment office;

(n) If applicable, violating subsection 3 of section 55 of this act regarding the sale of, or inducing students to obtain, a specific consumer student loan product; and

(o) Using an official United States military logo in advertising or promotional materials.

➤ As used in this subsection, "recruiting" includes, without limitation, canvassing and surveying. The term does not include leaving materials at or near an office for a person to pick up of his or her own accord or handing a brochure or leaflet to a person provided that no attempt is made to obtain a name, address, telephone number or other data or to otherwise actively pursue the enrollment of the prospective student.

2. The Commission may deny, revoke or suspend the license of any postsecondary vocational institution or agent that is found to have engaged in repeated unfair business practices or that has engaged in significant unfair business practices, as determined by the Administrator.

3. A postsecondary vocational institution or agent that violates this section is subject to a civil penalty of not more than \$100 for each separate violation. Each day on which a violation occurs constitutes a separate violation. Multiple violations on a single day may be considered separate violations. The civil penalty may be imposed by the Commission or in any court of competent jurisdiction.

Sec. 59. The rights, remedies and penalties provided by sections 51 to 58, inclusive, of this act are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

Sec. 60. NRS 394.005 is hereby amended to read as follows:

394.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 394.006 to 394.112, inclusive, and section 52 of this act have the meanings ascribed to them in those sections.

Sec. 61. NRS 394.099 is hereby amended to read as follows:

394.099 **1.** "Postsecondary educational institution" means an academic, vocational, technical, home study, business, professional or other school, college or university that is privately owned, or any person offering postsecondary education if he or she:

~~(1)~~ **(a)** Is not licensed as a postsecondary educational institution in this state by a federal or another state agency;

~~(2)~~ **(b)** Charges tuition, requires or requests donations or receives any consideration from a student for any portion of the instruction, including written or audiovisual material;

~~(3)~~ **(c)** Educates or trains persons who are not his or her employees; and

~~(4)~~ **(d)** Educates or trains, or claims or offers to educate or train, students in a program leading toward:

~~(a)~~ **(1)** Employment at a beginning or advanced level;

~~(b)~~ **(2)** Educational credentials;

~~(c)~~ **(3)** Credits that are intended to be applied toward an educational credential awarded in another state which does not require the person to obtain a majority of the credits required in that state; or

~~(d)~~ **(4)** Preparation for examinations for initial licensing in a profession or vocation.

~~(5)~~

2. The term includes a ~~branch~~ **(branch)** :

(a) *Postsecondary vocational institution; and*

(b) *Branch* or extension of a public or private postsecondary educational institution of another state that is located in this state or which offers educational services or education in this state.

3. The term does not include an institution or person offering only educational services or programs at the introductory level on the use of computer software to persons who have purchased that software from the institution or person.

Sec. 62. ~~NRS 394.415 is hereby amended to read as follows:~~

~~394.415 **1.** Except as otherwise provided in NRS 397.060, the Commission is the sole authority for licensing a postsecondary educational institution. Any person who operates or claims to operate such an institution must be licensed by the Commission. The Administrator may require any person who operates or claims to operate such an institution to furnish information which will allow the Commission to determine whether a license is required.~~

~~**2. The Commission shall not delegate to any other state its authority to oversee and enforce compliance with this chapter or its authority to respond to complaints made by students in this State, regardless of whether the postsecondary educational institution is authorized by, or has its home in, another state. Participation in interstate reciprocity agreements consistent with the purposes of this section does not delegate authority for compliance with this section or authority to respond to student complaints.** (Deleted by amendment.)~~

Sec. 63. NRS 394.570 is hereby amended to read as follows:

394.570 Funds to carry out the provisions of NRS 394.201 to 394.610, inclusive, **and sections 52 to 59, inclusive, of this act** shall be provided by legislative appropriation from the General Fund, and shall be paid out on claims as other claims against the State are paid.

Sec. 64. NRS 394.610 is hereby amended to read as follows:

394.610 Unless a specific penalty is otherwise provided, a person who willfully violates the provisions of NRS 394.005 to 394.560, inclusive, **and 52 to 59, inclusive, of this act** is guilty of a gross misdemeanor. Each day's failure to comply with the provisions of these sections is a separate offense.

1 **Sec. 65.** As soon as practicable after January 1, 2022, the Student Loan
2 Ombudsman designated by the State Treasurer pursuant to NRS 226.560 and the
3 Attorney General shall enter into the information sharing agreement required by
4 section 49 of this act.

5 **Sec. 66.** The provisions of subsection 1 of NRS 218D.380 do not apply to
6 any provision of this act which adds or revises a requirement to submit a report to
7 the Legislature.

8 **Sec. 67.** 1. This section becomes effective upon passage and approval.

9 2. Sections 1 to 17, inclusive, and 19 to 66, inclusive, of this act become
10 effective:

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

14 (b) On January 1, 2022, for all other purposes.

15 3. Section 18 of this act becomes effective on the date on which the
16 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
17 which the state has authority to withhold or suspend, or to restrict the use of
18 professional, occupational and recreational licenses of persons who:

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

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

23 ↪ are repealed by the Congress of the United States.

24 4. Section 17 of this act expires by limitation on the date on which the
25 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
26 which the state has authority to withhold or suspend, or to restrict the use of
27 professional, occupational and recreational licenses of persons who:

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

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

32 ↪ are repealed by the Congress of the United States.