

An Act

ENROLLED SENATE
BILL NO. 261

By: Montgomery of the Senate

and

Provenzano, Pae, Phillips,
Marti and Bush of the House

An Act relating to student loans; creating the Oklahoma Student Borrower's Bill of Rights Act; defining terms; directing the Attorney General to prepare certain statement and make available to public; prohibiting certain actions by student loan servicers; providing for codification; and providing an effective date.

SUBJECT: Creating the Oklahoma Student Borrower's Bill of Rights Act

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 170 of Title 24, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Student Borrower's Bill of Rights Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 171 of Title 24, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Student Borrower's Bill of Rights Act:

1. "Guarantor" means a nonprofit or state organization that works with a lender, servicer, school and the U.S. Department of Education to help students successfully repay certain federal student loans;

2. "Student loan borrower" means:

- a. any resident of this state who has received or agreed to pay a student education loan, or
- b. any person who shares responsibility with such resident for repaying the student education loan;

3. "Student loan servicer" means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower;

4. "Servicing" means:

- a. receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan,
- b. applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan, and
- c. performing other administrative services with respect to a student education loan.

Servicing does not include default aversion efforts provided by state or nonprofit guaranty agencies as required by their agreement with the U.S. Department of Education under the Higher Education Act of 1965; and

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 172 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General shall prepare a written statement that includes an "Oklahoma Student Borrower's Bill of Rights" for a student loan borrower who takes out a student education loan that is serviced by a student loan servicer. The statement shall incorporate all items from subsection B of this section and be made available to the public and written in plain language designed to be easily understood by the average student loan borrower.

B. No student loan servicer shall:

1. Directly or indirectly employ any scheme, device or artifice to defraud or mislead student loan borrowers;

2. Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

3. Obtain property by fraud or misrepresentation;

4. Incorrectly apply or fail to apply student education loan payments to the outstanding balance of a student education loan;

5. Provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;

6. Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to a credit bureau, except in the case of loan rehabilitation;

7. Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan

servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower;

8. Make any false statement or misrepresentation by omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by a governmental agency;

9. Fail to inform borrowers of the federal income repayment options before offering deferment or forbearance as an option; or

10. Inform student loan borrower if their type of loan does not qualify for loan forgiveness programs.

SECTION 4. This act shall become effective November 1, 2021.

Passed the Senate the 2nd day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____