

2022 Regular Session

HOUSE BILL NO. 610

BY REPRESENTATIVE GREEN

CREDIT/CONSUMER LOANS: Provides relative to student loans

1 AN ACT

2 To enact Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 6:1401 through 1403, relative to student loans; to define terms; to prohibit
4 student loan servicers from engaging in certain activities; to authorize student loan
5 servicers to engage in certain activities; to provide for written inquiries; to provide
6 for complaints; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950, comprised
9 of R.S. 6:1401 through 1403, is hereby enacted to read as follows:

10 CHAPTER 22. STUDENT LOAN SERVICERS

11 §1401. Definitions

12 As used in this Chapter, the following terms have the following meanings:

13 (1) "Nonconforming payment" means a payment made by a student loan
14 borrower that is more or less than the required payment for a student education loan
15 account.

16 (2) "Service" or "servicing" means:

17 (a) Receiving any scheduled periodic payments from a student loan borrower
18 or notification of such payments and applying payments to the student loan
19 borrower's account pursuant to the terms of the student education loan or a governing
20 contract.

1 (b) Maintaining account records for the loan and communicating with the
2 student loan borrower regarding the loan, on behalf of the loan's holder, during a
3 period when no payment is required on a student education loan.

4 (c) Interactions with a student loan borrower, including activities to help
5 prevent default on obligations arising from student education loans, conducted to
6 facilitate the activities described in Subparagraphs (a) and (b) of this Paragraph.

7 (3)(a) "Student education loan" means any of the following:

8 (i) A loan that is made, insured, or guaranteed under Title IV of the Higher
9 Education Act of 1965, as amended.

10 (ii) A loan that is extended to an individual with the express expectation that
11 the funds extended shall be used in whole or in part to pay expenses that are included
12 as part of the cost of attendance of a student as defined in 20 U.S.C. 1087, regardless
13 of whether the loan is provided through the educational institution that the student
14 loan borrower attends or directly to the student loan borrower from the lender.

15 (iii) A loan that is extended in order to refinance or consolidate a consumer's
16 existing student education loan.

17 (b) The term does not include any of the following, regardless of the purpose
18 for the loan:

19 (i) A loan under an open-end credit plan as defined in 12 CFR 1026.2.

20 (ii) A loan secured by real property.

21 (4) "Student loan borrower" means a resident of this state who meets either
22 of the following criteria:

23 (a) Has received or agreed to pay a student education loan.

24 (b) Shares repayment responsibility with a resident described in
25 Subparagraph (a) of this Paragraph.

26 (5) "Student loan servicer" means a person or entity who is engaged in the
27 business of servicing a student education loan owed by a student loan borrower.

1 §1402. Duties of student loan servicers2 A. Except as required by a court order or federal law, a student loan servicer
3 shall not do any of the following:4 (1) Employ, directly or indirectly, any scheme, device, or artifice to mislead
5 a student loan borrower.6 (2) Engage in any unfair, abusive, or deceptive trade practice toward any
7 person.8 (3) Misrepresent information or omit any material information in connection
9 with the servicing of a student education loan, including but not limited to the
10 following:11 (a) Any fee owed by a student loan borrower.12 (b) Any payment due by a student loan borrower.13 (c) The appropriateness or availability of a student loan borrower's
14 repayment options.15 (d) The terms and conditions of the student education loan.16 (e) The student loan borrower's obligations pursuant to the student education
17 loan.18 (4) Obtain property by misrepresentation of fact or omission of material fact.19 (5) Allocate a nonconforming payment in a manner other than as directed by
20 the student loan borrower if, in writing or electronically, the student loan borrower
21 does any of the following:22 (a) Make a one-time direction for the allocation of future payments.23 (b) Direct an allocation of a payment at the time the payment is made.24 (c) Direct an allocation in response to an inquiry by the student loan servicer.25 (d) Change an existing direction for the allocation of future payments.26 (6) Misapply or refuse to correct a misapplication of a payment from a
27 student loan borrower.28 (7) Provide inaccurate information to a consumer reporting agency or refuse
29 to correct inaccurate information provided to a consumer reporting agency.

1 (8) If a student loan servicer regularly reports information to a consumer
2 reporting agency, fail to report the favorable history of a student loan borrower to a
3 nationally recognized consumer reporting agency at least once a year.

4 (9) Refuse to communicate with an authorized representative of a student
5 loan borrower who provides a written authorization signed by the student loan
6 borrower, except as provided for in Subsection B of this Section.

7 (10) Negligently make a false statement or omit a material fact in
8 connections with any informational report filed with, or any investigation conducted
9 by, a state or local government agency.

10 B. A student loan servicer may adopt procedures to verify that an authorized
11 representative of a student loan borrower is authorized to act on behalf of the student
12 loan borrower.

13 §1403. Written inquiries and complaints

14 A. A student loan servicer shall acknowledge receipt of a written inquiry or
15 complaint from a student loan borrower or the authorized representative of a student
16 loan borrower within ten days after receiving the inquiry or complaint.

17 B. Unless a response to the written inquiry is included in the
18 acknowledgment required pursuant to Subsection A of this Section, a student loan
19 servicer shall provide information responding to a written inquiry or complaint
20 received pursuant to Subsection A of this Section within thirty days after receiving
21 the inquiry or complaint.

22 C. If a written inquiry or complaint received pursuant to Subsection A of this
23 Section relates to a student loan borrower's account balance, the information
24 provided pursuant to Subsection B of this Section is to include either of the
25 following:

26 (1) A statement that the student loan servicer has corrected the account
27 balance.

28 (2) An explanation of why the student loan servicer believes that the student
29 loan borrower's account is correct.

1 D. If a student loan borrower requests a document concerning the account
2 of the student loan borrower that is in the possession or control of a student loan
3 servicer, the student loan servicer shall provide the document within thirty days after
4 receiving the request.

5 E. If a student loan servicer receives a nonconforming payment, the student
6 loan servicer shall do all of the following:

7 (1) Notify the student loan borrower that the payment is a nonconforming
8 payment within ten days after receiving the payment.

9 (2) Ask the student loan borrower how he would like the student loan
10 servicer to apply the nonconforming payment to the student loan borrower's account.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 610 Engrossed

2022 Regular Session

Green

Abstract: Requires student loan servicers to apply a borrower's payment in the manner requested by the borrower, to respond to inquiries and complaints by the borrower, and to follow certain other guidelines relative to student education loans.

Proposed law defines "nonconforming payment", "service" or "servicing", "student education loan", "student loan borrower", and "student loan servicer".

Proposed law prohibits a student loan servicer from the following:

- (1) Employing a scheme to mislead a student loan borrower.
- (2) Engaging in unfair, abusive, or deceptive trade practices.
- (3) Misrepresenting or omitting any material information in connection with the servicing of a student education loan.
- (4) Obtaining property by misinformation.
- (5) Allocating a nonconforming payment in a manner other than as directed by the borrower.
- (6) Misapplying or refusing to correct a misapplication of payment.
- (7) Providing inaccurate information to a consumer reporting agency, or refuse to correct the inaccurate information.
- (8) Failing to report the favorable history of a student loan borrower to a nationally recognized consumer reporting agency at least once a year.

- (9) Refusing to communicate with an authorized representative of a student loan borrower.
- (10) Negligently making a false statement or omitting a material fact in connection with a report or investigation.

Proposed law allows a student loan servicer to adopt procedures to verify the authority of a representative to act on behalf of a student loan borrower.

Proposed law requires a student loan servicer to acknowledge receipt of an inquiry or complaint from a borrower.

Proposed law requires a student loan servicer to provide certain information when responding to an inquiry or complaint of a borrower.

Proposed law provides time limits applicable to various communications between the student loan servicer and the borrower.

(Adds R.S. 6:1401-1403)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Modify the definition of "service".
2. Remove the requirement that certain actions be done knowingly or recklessly in order for such activity to be prohibited pursuant to proposed law.
3. Remove provisions relative to the enforcement of proposed law.
4. Make technical changes.