

SENATE BILL 670

I1, F2, I3

9lr1595
CF HB 594

By: **The President (By Request – Office of the Attorney General) and Senators Augustine, Guzzone, Kelley, King, Lee, Peters, Pinsky, and Rosapepe**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Student Loan Servicers – Unfair, Abusive, or Deceptive**
3 **Trade Practices**

4 FOR the purpose of prohibiting a student loan servicer from employing any scheme, device,
5 or artifice to mislead a student loan borrower; prohibiting a student loan servicer
6 from engaging in any unfair, abusive, or deceptive trade practice toward any person;
7 prohibiting a student loan servicer from misrepresenting or omitting certain
8 information in connection with the servicing of a certain loan; prohibiting a student
9 loan servicer from obtaining property by misrepresentation or omission of a certain
10 fact; prohibiting a student loan servicer from applying a payment from a student
11 loan borrower to a certain loan in a certain manner; prohibiting a student loan
12 servicer from knowingly or recklessly misapplying or refusing to correct a
13 misapplication of a certain payment under certain circumstances; prohibiting a
14 student loan servicer from knowingly or recklessly providing certain information, or
15 refusing to correct certain information provided, to a certain consumer reporting
16 agency; prohibiting a student loan servicer from failing to report a certain history to
17 a certain consumer reporting agency under certain circumstances; prohibiting a
18 student loan servicer from refusing to communicate with a certain representative of
19 a certain student loan borrower under certain circumstances; prohibiting a student
20 loan servicer from negligently making a certain statement or omitting a certain fact
21 in connection with certain information filed with, or a certain investigation
22 conducted by, a certain government agency; prohibiting a student loan servicer from
23 violating a certain law concerning student education loan servicing; authorizing a
24 certain student loan servicer to adopt procedures to verify that a certain
25 representative of a student loan borrower is authorized to act in a certain manner;
26 requiring a student loan servicer to respond to a certain inquiry or complaint in a
27 certain manner; requiring a student loan servicer to provide a certain document
28 under certain circumstances; requiring a student loan servicer to apply a certain
29 payment in a certain manner; providing that a violation of this Act is an unfair,
30 abusive, or deceptive trade practice and is subject to certain enforcement and penalty

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 provisions, including certain criminal penalty; defining certain terms; and generally
2 relating to student loan servicers.

3 BY adding to

4 Article – Education

5 Section 26–601 through 26–603 to be under the new subtitle “Subtitle 6. Student
6 Loan Servicers”

7 Annotated Code of Maryland

8 (2018 Replacement Volume and 2018 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That the Laws of Maryland read as follows:

11 **Article – Education**

12 **SUBTITLE 6. STUDENT LOAN SERVICERS.**

13 **26–601.**

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (B) “CONSUMER REPORTING AGENCY” HAS THE MEANING STATED IN §
17 14–1201 OF THE COMMERCIAL LAW ARTICLE.

18 (C) “NONCONFORMING PAYMENT” MEANS A PAYMENT MADE BY A STUDENT
19 LOAN BORROWER THAT IS MORE OR LESS THAN THE REQUIRED PAYMENT FOR A
20 STUDENT EDUCATION LOAN.

21 (D) “SERVICING” MEANS:

22 (1) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT
23 LOAN BORROWER ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;

24 (2) APPLYING THE PAYMENTS FROM A STUDENT LOAN BORROWER
25 RECEIVED ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;

26 (3) INTERACTING WITH A STUDENT LOAN BORROWER IN
27 CONNECTION WITH THE REPAYMENT, RESTRUCTURING, OR DEFERRAL OF
28 REPAYMENT OF A STUDENT EDUCATION LOAN; OR

29 (4) PERFORMING OTHER ADMINISTRATIVE SERVICES RELATED TO A
30 STUDENT EDUCATION LOAN.

31 (E) “STUDENT EDUCATION LOAN” MEANS ANY LOAN, NOTWITHSTANDING

1 ANY ELECTION OF LAW OR DESIGNATION OF STATUS IN ANY CONTRACT, USED FOR
2 FINANCING POSTSECONDARY EDUCATION OR OTHER POSTSECONDARY
3 SCHOOL-RELATED EXPENSES.

4 (F) "STUDENT LOAN BORROWER" MEANS A RESIDENT OF THE STATE WHO:

5 (1) HAS RECEIVED OR AGREED TO PAY A STUDENT EDUCATION LOAN;
6 OR

7 (2) SHARES REPAYMENT RESPONSIBILITY WITH A RESIDENT
8 DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

9 (G) (1) "STUDENT LOAN SERVICER" MEANS A PERSON, REGARDLESS OF
10 LOCATION, RESPONSIBLE FOR SERVICING A STUDENT EDUCATION LOAN TO A
11 STUDENT LOAN BORROWER.

12 (2) "STUDENT LOAN SERVICER" INCLUDES A TRUST ENTITY
13 PERFORMING OR RECEIVING THE BENEFIT OF STUDENT LOAN SERVICING.

14 **26-602.**

15 (A) A STUDENT LOAN SERVICER MAY NOT:

16 (1) EMPLOY, DIRECTLY OR INDIRECTLY, ANY SCHEME, DEVICE, OR
17 ARTIFICE TO MISLEAD A STUDENT LOAN BORROWER;

18 (2) ENGAGE IN ANY UNFAIR, ABUSIVE, OR DECEPTIVE TRADE
19 PRACTICE TOWARD ANY PERSON;

20 (3) MISREPRESENT INFORMATION OR OMIT ANY MATERIAL
21 INFORMATION IN CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION
22 LOAN, INCLUDING:

23 (I) ANY FEE OWED BY A STUDENT LOAN BORROWER;

24 (II) ANY PAYMENT DUE BY A STUDENT LOAN BORROWER;

25 (III) THE APPROPRIATENESS OR AVAILABILITY OF A STUDENT
26 LOAN BORROWER'S REPAYMENT OPTIONS;

27 (IV) THE TERMS AND CONDITIONS OF THE STUDENT EDUCATION
28 LOAN; OR

1 **(V) THE STUDENT LOAN BORROWER'S OBLIGATIONS UNDER**
2 **THE STUDENT EDUCATION LOAN;**

3 **(4) OBTAIN PROPERTY BY MISREPRESENTATION OF FACT OR**
4 **OMISSION OF MATERIAL FACT;**

5 **(5) APPLY A PAYMENT FROM A STUDENT LOAN BORROWER TO A**
6 **STUDENT EDUCATION LOAN IN A MANNER DETRIMENTAL TO THE STUDENT LOAN**
7 **BORROWER;**

8 **(6) KNOWINGLY OR RECKLESSLY MISAPPLY, OR REFUSE TO CORRECT**
9 **A MISAPPLICATION OF:**

10 **(I) A PAYMENT FROM A STUDENT LOAN BORROWER; OR**

11 **(II) EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW, A**
12 **FEDERAL STUDENT EDUCATION LOAN AGREEMENT, OR A CONTRACT BETWEEN THE**
13 **FEDERAL GOVERNMENT AND A STUDENT LOAN SERVICER, A NONCONFORMING**
14 **PAYMENT IN A MANNER THAT WAS NOT REQUESTED BY THE STUDENT LOAN**
15 **BORROWER;**

16 **(7) KNOWINGLY OR RECKLESSLY PROVIDE INACCURATE**
17 **INFORMATION TO A CONSUMER REPORTING AGENCY, OR REFUSE TO CORRECT**
18 **INACCURATE INFORMATION PROVIDED TO A CONSUMER REPORTING AGENCY;**

19 **(8) IF A STUDENT LOAN SERVICER REGULARLY REPORTS**
20 **INFORMATION TO A CONSUMER REPORTING AGENCY, FAIL TO REPORT THE**
21 **FAVORABLE HISTORY OF A STUDENT LOAN BORROWER TO A NATIONALLY**
22 **RECOGNIZED CONSUMER REPORTING AGENCY AT LEAST ONCE A YEAR;**

23 **(9) SUBJECT TO SUBSECTION (B) OF THIS SECTION, REFUSE TO**
24 **COMMUNICATE WITH AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN**
25 **BORROWER WHO PROVIDES A WRITTEN AUTHORIZATION SIGNED BY THE STUDENT**
26 **LOAN BORROWER;**

27 **(10) NEGLIGENCELY MAKE A FALSE STATEMENT OR OMIT A MATERIAL**
28 **FACT IN CONNECTION WITH ANY INFORMATION REPORT FILED WITH, OR ANY**
29 **INVESTIGATION CONDUCTED BY, A STATE OR LOCAL GOVERNMENT AGENCY; OR**

30 **(11) VIOLATE ANY FEDERAL LAW CONCERNING STUDENT EDUCATION**
31 **LOAN SERVICING.**

32 **(B) A STUDENT LOAN SERVICER MAY ADOPT PROCEDURES TO VERIFY THAT**

1 AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN BORROWER IS, IN FACT,
2 AUTHORIZED TO ACT ON BEHALF OF THE STUDENT LOAN BORROWER.

3 (C) (1) A STUDENT LOAN SERVICER SHALL ACKNOWLEDGE RECEIPT OF A
4 WRITTEN INQUIRY OR COMPLAINT FROM A STUDENT LOAN BORROWER OR THE
5 AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN BORROWER WITHIN 10 DAYS
6 AFTER RECEIVING THE INQUIRY OR COMPLAINT.

7 (2) A STUDENT LOAN SERVICER SHALL PROVIDE INFORMATION
8 RESPONDING TO A WRITTEN INQUIRY OR COMPLAINT RECEIVED UNDER PARAGRAPH
9 (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER RECEIVING THE INQUIRY OR
10 COMPLAINT.

11 (3) IF A WRITTEN INQUIRY OR COMPLAINT RECEIVED UNDER
12 PARAGRAPH (1) OF THIS SUBSECTION RELATES TO A STUDENT LOAN BORROWER'S
13 ACCOUNT BALANCE, THE INFORMATION PROVIDED UNDER PARAGRAPH (2) OF THIS
14 SUBSECTION SHALL:

15 (I) STATE THAT THE STUDENT LOAN SERVICER HAS
16 CORRECTED THE ACCOUNT BALANCE; OR

17 (II) EXPLAIN WHY THE STUDENT LOAN SERVICER BELIEVES
18 THAT THE STUDENT LOAN BORROWER'S ACCOUNT IS CORRECT.

19 (D) IF A STUDENT LOAN BORROWER REQUESTS A DOCUMENT CONCERNING
20 THE ACCOUNT OF THE STUDENT LOAN BORROWER THAT IS IN THE POSSESSION OR
21 CONTROL OF A STUDENT LOAN SERVICER, THE STUDENT LOAN SERVICER SHALL
22 PROVIDE THE DOCUMENT WITHIN 30 DAYS AFTER RECEIVING THE REQUEST.

23 (E) IF A STUDENT LOAN SERVICER RECEIVES A NONCONFORMING
24 PAYMENT, THE STUDENT LOAN SERVICER SHALL:

25 (1) NOTIFY THE STUDENT LOAN BORROWER THAT THE PAYMENT IS A
26 NONCONFORMING PAYMENT WITHIN 10 DAYS AFTER RECEIVING THE PAYMENT; AND

27 (2) ASK THE STUDENT LOAN BORROWER HOW THE STUDENT LOAN
28 BORROWER WOULD LIKE THE STUDENT LOAN SERVICER TO APPLY THE
29 NONCONFORMING PAYMENT TO THE STUDENT LOAN BORROWER'S ACCOUNT.

30 26-603.

31 A VIOLATION OF THIS SUBTITLE IS:

1 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN**
2 **THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

3 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
4 **CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2019.