

HOUSE BILL 128

I1, I3, F2

2lr0595

(PRE-FILED)

By: **Delegate Lopez**

Requested: September 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Economic Matters and Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2022

CHAPTER _____

1 AN ACT concerning

2 **Debt Settlement Services – Student Education Loan Debt Relief – Disclosures**
3 **and Prohibitions**

4 FOR the purpose of ~~applying certain provisions of law regarding debt settlement services~~
5 ~~to student education loan debt relief~~, requiring a person registered to provide debt
6 settlement services to make certain disclosures to consumers relating to student
7 education loan debt; requiring that an advertisement for debt settlement services for
8 student education loan debt relief include a certain disclosure; prohibiting debt
9 settlement services providers from taking certain actions with respect to student
10 education loan debt relief; and generally relating to student education loan debt and
11 debt settlement services.

12 ~~BY repealing and reenacting, without amendments,~~
13 ~~Article – Financial Institutions~~
14 ~~Section 2 – 104.1(a)~~
15 ~~Annotated Code of Maryland~~
16 ~~(2020 Replacement Volume and 2021 Supplement)~~

17 ~~BY repealing and reenacting, with amendments,~~
18 ~~Article – Financial Institutions~~
19 ~~Section 12 – 1001, 12 – 1012, and 12 – 1013~~
20 ~~Annotated Code of Maryland~~
21 ~~(2020 Replacement Volume and 2021 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY adding to~~
 2 ~~Article – Financial Institutions~~
 3 ~~Section 12–1012.1~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2020 Replacement Volume and 2021 Supplement)~~

6 BY renumbering
 7 Article – Financial Institutions
 8 Section 12–1001(l)
 9 to be Section 12–1001(m)
 10 Annotated Code of Maryland
 11 (2020 Replacement Volume and 2021 Supplement)

12 BY repealing and reenacting, without amendments,
 13 Article – Financial Institutions
 14 Section 2–104.1(a)(1) and (3) and 12–1001(a)
 15 Annotated Code of Maryland
 16 (2020 Replacement Volume and 2021 Supplement)

17 BY adding to
 18 Article – Financial Institutions
 19 Section 12–1001(l) and 12–1012.1
 20 Annotated Code of Maryland
 21 (2020 Replacement Volume and 2021 Supplement)

22 BY repealing and reenacting, with amendments,
 23 Article – Financial Institutions
 24 Section 12–1012 and 12–1013
 25 Annotated Code of Maryland
 26 (2020 Replacement Volume and 2021 Supplement)

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

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 30 That Section(s) 12–1001(l) of Article – Financial Institutions of the Annotated Code of
 31 Maryland be renumbered to be Section(s) 12–1001(m).

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 33 as follows:

34 **Article – Financial Institutions**

35 ~~2–104.1.~~

36 ~~(a) (1) In this section the following words have the meanings indicated.~~

1 ~~(2) “Servicing” means:~~

2 ~~(i) Receiving scheduled periodic payments from a student loan~~
3 ~~borrower according to the terms of a student education loan;~~

4 ~~(ii) Applying the payments according to the student education loan~~
5 ~~terms; and~~

6 ~~(iii) Performing other administrative services.~~

7 ~~(3) “Student education loan” means any loan, notwithstanding any election~~
8 ~~of law or designation of status in any contract, used for financing postsecondary education~~
9 ~~or other postsecondary school-related expenses.~~

10 ~~(4) “Student loan borrower” means:~~

11 ~~(i) A resident of the State who has received or agreed to pay a~~
12 ~~student education loan; or~~

13 ~~(ii) A resident who shares repayment responsibility with a resident~~
14 ~~described under item (i) of this paragraph.~~

15 ~~(5) “Student Loan Ombudsman” means an individual, whether a paid~~
16 ~~employee or a volunteer, whom the Commissioner designates to serve as a liaison between~~
17 ~~student loan borrowers and student loan servicers.~~

18 ~~(6) (i) “Student loan servicer” means a person, regardless of location,~~
19 ~~responsible for servicing a student education loan to a student loan borrower.~~

20 ~~(ii) “Student loan servicer” includes a trust entity performing or~~
21 ~~receiving the benefit of student education loan servicing.~~

22 ~~12-1001.~~

23 ~~(a) In this subtitle the following words have the meanings indicated.~~

24 ~~(b) (1) “Consumer” means an individual who:~~

25 ~~[(1)] (I) Resides in the State; and~~

26 ~~[(2)] (II) Is seeking debt settlement services or has entered into a debt~~
27 ~~settlement services agreement in connection with debts that are consumer debts, as defined~~
28 ~~in § 13-101 of the Commercial Law Article.~~

29 ~~(2) “CONSUMER” INCLUDES A STUDENT LOAN BORROWER AS~~
30 ~~DEFINED IN § 2-104.1 OF THIS ARTICLE.~~

1 ~~(e) “Debt management services” has the meaning stated in § 12-901 of this title.~~

2 ~~(d) (1) “Debt settlement services” means any service or program represented,~~
 3 ~~directly or by implication, to renegotiate, settle, reduce, or in any way alter the terms of~~
 4 ~~payment or other terms of a debt between a consumer and one or more unsecured creditors~~
 5 ~~or debt collectors, including a reduction in the balance, interest rate, or fees owed by a~~
 6 ~~consumer to an unsecured creditor or debt collector.~~

7 ~~(2) “DEBT SETTLEMENT SERVICES” INCLUDES STUDENT EDUCATION~~
 8 ~~LOAN DEBT RELIEF.~~

9 ~~[(2)](3) “Debt settlement services” does not include [debt]:~~

10 ~~(I) DEBT management services;~~

11 ~~(II) SERVICES OF A STUDENT LOAN SERVICER; OR~~

12 ~~(III) SERVICES OF AN ORIGINATOR, A GUARANTOR, OR A~~
 13 ~~SERVICER OF FEDERAL EDUCATION LOANS OR PRIVATE EDUCATION LOANS.~~

14 ~~(e) “Debt settlement services agreement” means a written contract, plan, or~~
 15 ~~agreement between a debt settlement services provider and a consumer for the performance~~
 16 ~~of debt settlement services.~~

17 ~~(f) “Debt settlement services fee” means a fee charged to a consumer by a debt~~
 18 ~~settlement services provider for providing debt settlement services for a consumer.~~

19 ~~(g) (1) “Debt settlement services provider” means a person that provides or~~
 20 ~~offers to provide debt settlement services for a consumer regardless of whether the person~~
 21 ~~provides the debt settlement services on a for-profit or not-for-profit basis.~~

22 ~~(2) “DEBT SETTLEMENT SERVICES PROVIDER” INCLUDES A PERSON~~
 23 ~~THAT:~~

24 ~~(I) ENGAGES IN OR HOLDS ITSELF OUT AS ENGAGING IN THE~~
 25 ~~BUSINESS OF STUDENT EDUCATION LOAN DEBT RELIEF IN EXCHANGE FOR A FEE OR~~
 26 ~~COMPENSATION ASSESSED AGAINST OR CHARGED TO A CONSUMER; OR~~

27 ~~(II) SOLICITS FOR OR ACTS ON BEHALF OF A PERSON ENGAGING~~
 28 ~~IN ACTIVITIES DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH.~~

29 ~~(3) “DEBT SETTLEMENT SERVICES PROVIDER” DOES NOT INCLUDE~~
 30 ~~AN INSTITUTION OF HIGHER EDUCATION AS DEFINED IN THE FEDERAL HIGHER~~
 31 ~~EDUCATION ACT OF 1965.~~

1 ~~(h) "Dedicated account" means an account described in § 12-1010(d) of this~~
2 ~~subtitle.~~

3 ~~(i) "Offer, provide, or attempt to provide debt settlement services" means~~
4 ~~providing debt settlement services.~~

5 ~~(1) To consumers through any means, including telephone telemarketing,~~
6 ~~Internet solicitation, and face-to-face meetings; and~~

7 ~~(2) On an intrastate or interstate basis.~~

8 ~~(j) "Principal amount of the debt" means the amount of a debt at the time the~~
9 ~~debt is included in a debt settlement services agreement.~~

10 ~~(k) "Registrant" means a person registered under this subtitle to provide debt~~
11 ~~settlement services.~~

12 ~~(L) "STUDENT EDUCATION LOAN" HAS THE MEANING STATED IN §~~
13 ~~2-104.1(A) OF THIS ARTICLE.~~

14 ~~(M) "STUDENT EDUCATION LOAN DEBT RELIEF" MEANS OFFERING TO~~
15 ~~PROVIDE ADVICE OR SERVICE, OR ACTING AS AN INTERMEDIARY BETWEEN OR ON~~
16 ~~BEHALF OF A CONSUMER AND THE UNITED STATES DEPARTMENT OF EDUCATION,~~
17 ~~ANY ORIGINATOR OR GUARANTOR OF FEDERAL EDUCATION LOANS, OR A STUDENT~~
18 ~~LOAN SERVICER, IN EXCHANGE FOR A FEE OR COMPENSATION ASSESSED AGAINST~~
19 ~~OR CHARGED TO A CONSUMER, IN ORDER TO:~~

20 ~~(1) NEGOTIATE, ARRANGE, OR OBTAIN:~~

21 ~~(I) A SETTLEMENT, ADJUSTMENT, DISCHARGE, OR~~
22 ~~SATISFACTION OF A CONSUMER'S STUDENT EDUCATION LOAN IN AN AMOUNT LESS~~
23 ~~THAN THE FULL AMOUNT OF THE PRINCIPAL AMOUNT OF THE DEBT OR THE~~
24 ~~CURRENT OUTSTANDING BALANCE OF THE DEBT; OR~~

25 ~~(II) A REDUCTION OR ALTERATION IN:~~

26 ~~1. THE AMOUNT OF MONTHLY PAYMENT OF FEES; OR~~

27 ~~2. THE AMOUNT OF INTEREST OWED;~~

28 ~~(2) ENROLL A CONSUMER IN A REPAYMENT PLAN, FORBEARANCE, OR~~
29 ~~DEFERMENT OF A STUDENT EDUCATION LOAN;~~

30 ~~(3) APPLY FOR CONSOLIDATION OF OR CONSOLIDATE A CONSUMER'S~~
31 ~~STUDENT EDUCATION LOAN; OR~~

~~(4) OFFER TO PROVIDE ANY OTHER SERVICE RELATING TO ALTERING THE TERMS OF A CONSUMER'S STUDENT EDUCATION LOAN, INCLUDING A REDUCTION IN THE AMOUNT OF:~~

~~(I) INTEREST OWED BY THE CONSUMER;~~

~~(II) THE PRINCIPAL BALANCE OF THE STUDENT EDUCATION LOAN; OR~~

~~(III) A MONTHLY PAYMENT OR FEE.~~

~~(N) "STUDENT LOAN SERVICER" HAS THE MEANING STATED IN § 2-104.1(A) OF THIS ARTICLE.~~

~~[(O)] (O) "Unique identifier" means a number or another identifier assigned by NMLS.~~

~~2-104.1.~~

(a) (1) In this section the following words have the meanings indicated.

(3) "Student education loan" means any loan, notwithstanding any election of law or designation of status in any contract, used for financing postsecondary education or other postsecondary school-related expenses.

12-1001.

(a) In this subtitle the following words have the meanings indicated.

(L) "STUDENT EDUCATION LOAN" HAS THE MEANING STATED IN § 2-104.1(A) OF THIS ARTICLE.

12-1012.

(a) A debt settlement services agreement shall:

(1) Be signed and dated by the registrant and the consumer; and

(2) Include, in at least 12 point type:

(i) The name, address, and telephone number of the consumer;

(ii) The name, address, and telephone number of the registrant;

- 1 (iii) A description of the debt settlement services to be provided to the
2 consumer;
- 3 (iv) 1. Any debt settlement services fees to be charged to the
4 consumer; and
- 5 2. A statement that the registrant may not:
- 6 A. Charge the consumer a fee for consultation or for obtaining
7 a consumer's credit report; or
- 8 B. Require a voluntary contribution from the consumer for
9 any service provided by the registrant;
- 10 (v) The identity of each individual creditor or debt collector whose
11 debts are included in the debt settlement services agreement and the principal amount of
12 the debt owed to each individual creditor or debt collector;
- 13 (vi) The principal amount of the total debt included in the debt
14 settlement services agreement;
- 15 (vii) A good faith estimate of the amount of time necessary to achieve
16 the represented results;
- 17 (viii) To the extent that the debt settlement services may include a
18 debt settlement offer to any of the consumer's creditors or debt collectors, a good faith
19 estimate of:
- 20 1. The time by which the registrant will make a bona fide
21 debt settlement offer to each of them; and
- 22 2. The amount of money or percentage of each debt that the
23 consumer must accumulate before the registrant will make a bona fide debt settlement
24 offer to each of them;
- 25 (ix) A statement that:
- 26 1. The consumer may withdraw from the debt settlement
27 services agreement at any time; and
- 28 2. If a consumer withdraws from the debt settlement services
29 agreement, the registrant:
- 30 A. May not charge a penalty; and
- 31 B. May collect debt settlement services fees earned by the
32 registrant;

1 **(X) FOR A DEBT SETTLEMENT SERVICES AGREEMENT FOR**
 2 **STUDENT EDUCATION LOAN DEBT RELIEF, A STATEMENT IN SUBSTANTIALLY THE**
 3 **FOLLOWING FORM:**

4 **“(NAME OF COMPANY) IS A PRIVATE COMPANY, AND IS NOT AFFILIATED WITH**
 5 **THE UNITED STATES DEPARTMENT OF EDUCATION OR ANY OTHER ACADEMIC**
 6 **ENTITY OR GOVERNMENTAL AGENCY. (NAME OF COMPANY) IS NOT A LENDER,**
 7 **GUARANTOR, OR SERVICER OF FEDERAL STUDENT LOANS. YOU CAN APPLY FOR**
 8 **CONSOLIDATION AND OTHER REPAYMENT PLANS WITHOUT PAID ASSISTANCE**
 9 **THROUGH THE UNITED STATES DEPARTMENT OF EDUCATION. MORE**
 10 **INFORMATION IS AVAILABLE ON THE DEPARTMENT’S WEBSITE OR THROUGH YOUR**
 11 **FEDERAL STUDENT LOAN SERVICER. YOU CAN FIND OUT WHO YOUR SERVICER IS**
 12 **THROUGH THE UNITED STATES DEPARTMENT OF EDUCATION.”;**

13 **[(x)] (XI)** If the registrant requests or requires the consumer to
 14 deposit funds in a dedicated account, a statement that:

15 1. The consumer owns the funds held in the account,
 16 including any accrued interest; and

17 2. If the consumer requests to withdraw from the debt
 18 settlement services agreement, within 7 days after the request, all funds in the account,
 19 including accrued interest, less any debt settlement services fees earned by the registrant
 20 in compliance with § 12–1010 of this subtitle, must be paid to the consumer; and

21 **[(xi)] (XII)** A statement that the consumer may be required to pay
 22 taxes on the amount by which the consumer’s debt is reduced.

23 (b) ~~(1)~~ The disclosures required under subsection (a)(2)(vii) through **[(xi)] (XII)**
 24 of this section shall be provided to the consumer in a clear and conspicuous manner in the
 25 debt settlement services agreement.

26 ~~(2) A REGISTRANT REQUIRED TO MAKE A DISCLOSURE UNDER~~
 27 ~~SUBSECTION (A)(2)(X) OF THIS SECTION SHALL MAKE SUBSTANTIALLY THE SAME~~
 28 ~~STATEMENT ORALLY TO THE CONSUMER BEFORE THE AGREEMENT IS SIGNED.~~

29 **12–1012.1.**

30 **A DEBT SETTLEMENT SERVICES PROVIDER ENGAGED IN STUDENT EDUCATION**
 31 **LOAN DEBT RELIEF MAY NOT:**

32 **(1) ADVISE, EXPRESSLY OR BY IMPLICATION, THAT A CONSUMER**
 33 **STOP MAKING PAYMENTS OR STOP COMMUNICATING WITH THE CONSUMER’S**
 34 **STUDENT LOAN SERVICER; OR**

1 **(2) ACCESS OR OBTAIN A CONSUMER'S STUDENT AID INFORMATION**
2 **IN VIOLATION OF FEDERAL LAW.**

3 12-1013.

4 **(A)** An advertisement for debt settlement services shall include clearly and
5 conspicuously a disclosure that, to the extent that any aspect of the debt settlement services
6 relies on or results in the consumer's failure to make timely payments to the consumer's
7 creditors or debt collectors, the use of the debt settlement services:

8 (1) Will likely adversely affect the consumer's creditworthiness;

9 (2) May result in the consumer being subject to collections or being sued by
10 creditors or debt collectors; and

11 (3) May increase the amount of money the consumer owes due to the
12 accrual of fees and interest by creditors or debt collectors.

13 **(B) AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES FOR STUDENT**
14 **EDUCATION LOAN DEBT RELIEF SHALL INCLUDE CLEARLY AND CONSPICUOUSLY A**
15 **DISCLOSURE IN SUBSTANTIALLY THE FOLLOWING FORM:**

16 “(NAME OF COMPANY) IS A PRIVATE COMPANY, AND IS NOT AFFILIATED WITH
17 THE UNITED STATES DEPARTMENT OF EDUCATION OR ANY OTHER ACADEMIC
18 ENTITY OR GOVERNMENTAL AGENCY. (NAME OF COMPANY) IS NOT A LENDER,
19 GUARANTOR, OR SERVICER OF FEDERAL STUDENT LOANS. YOU CAN APPLY FOR
20 CONSOLIDATION AND OTHER REPAYMENT PLANS WITHOUT PAID ASSISTANCE
21 THROUGH THE UNITED STATES DEPARTMENT OF EDUCATION. MORE
22 INFORMATION IS AVAILABLE ON THE DEPARTMENT'S WEBSITE OR THROUGH YOUR
23 FEDERAL STUDENT LOAN SERVICER. YOU CAN FIND OUT WHO YOUR SERVICER IS
24 THROUGH THE UNITED STATES DEPARTMENT OF EDUCATION.”.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2022.