

SB0670/787879/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 670
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 11, 27, and 29, in each instance, after “manner” insert “, except under certain circumstances”.

On page 2, in line 1, after “penalty;” insert “providing that violations of this Act are subject to the enforcement authority of the Commissioner of Financial Regulation; providing that the Student Loan Ombudsman may refer complaints by student loan borrowers to the Commissioner; repealing a certain reporting requirement; providing that the Nondepository Special Fund shall cover the direct and indirect costs of the Commissioner fulfilling duties under this Act;”; in line 5, strike “26-603” and substitute “26-604”; and after line 8, insert:

“BY repealing

Article - Financial Institutions

Section 2-104.1(h)

Annotated Code of Maryland

(2011 Replacement Volume and 2018 Supplement)

BY adding to

Article - Financial Institutions

Section 2-104.1(h) and 11-610(c)(15)

Annotated Code of Maryland

(2011 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article - Financial Institutions

Section 11-610(c)(14) and (15)

(Over)

Annotated Code of Maryland
(2011 Replacement Volume and 2018 Supplement)".

AMENDMENT NO. 2

On page 2, in line 20, after "LOAN" insert "ACCOUNT"; in line 22, after "(1)" insert "(I)"; in the same line, after "RECEIVING" insert "ANY"; in line 23, strike "ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN" and substitute "OR NOTIFICATION OF THE PAYMENTS"; in the same line, after the semicolon insert "AND"; in line 24, strike "(2)" and substitute "(II)"; in the same line, strike "FROM" and substitute "TO"; in the same line, strike "BORROWER" and substitute "BORROWER'S"; in line 25, strike "RECEIVED" and substitute "ACCOUNT"; in the same line, after "LOAN" insert "OR A CONTRACT GOVERNING THE SERVICES"; after line 25, insert:

"(2) DURING A PERIOD WHEN NO PAYMENT IS REQUIRED ON A STUDENT EDUCATION LOAN:

(I) MAINTAINING ACCOUNT RECORDS FOR THE STUDENT EDUCATION LOAN; AND

(II) COMMUNICATING WITH THE STUDENT LOAN BORROWER REGARDING THE STUDENT EDUCATION LOAN ON BEHALF OF THE HOLDER OF THE STUDENT EDUCATION LOAN; OR;

strike beginning with "IN" in line 26 down through "OR" in line 28 and substitute ", INCLUDING INTERACTIONS TO HELP PREVENT DEFAULT ON OBLIGATIONS ARISING FROM A STUDENT EDUCATION LOAN, TO FACILITATE THE ACTIVITIES DESCRIBED IN ITEM (1) OR (2) OF THIS SUBSECTION."; strike in their entirety lines 29 and 30; in line 31, after "(E)" insert "(1)"; and in the same line, after the second "LOAN" insert "THAT IS:

(I) MADE, INSURED, OR GUARANTEED UNDER TITLE IV OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED; OR

(II) REGARDLESS OF WHETHER THE LOAN IS PROVIDED THROUGH THE EDUCATIONAL INSTITUTION THAT THE STUDENT LOAN BORROWER ATTENDS OR DIRECTLY TO THE STUDENT LOAN BORROWER FROM THE LENDER, EXTENDED TO AN INDIVIDUAL WITH THE EXPRESS EXPECTATION THAT THE FUNDS EXTENDED WILL BE USED IN WHOLE OR IN PART TO PAY EXPENSES THAT ARE INCLUDED AS PART OF THE COST OF ATTENDANCE OF A STUDENT AS DEFINED IN 20 U.S.C. § 1087.

(2) “STUDENT EDUCATION LOAN” INCLUDES A LOAN THAT IS EXTENDED IN ORDER TO REFINANCE OR CONSOLIDATE A CONSUMER'S EXISTING STUDENT EDUCATION LOANS.

(3) “STUDENT EDUCATION LOAN” DOES NOT INCLUDE, REGARDLESS OF THE PURPOSE FOR THE LOAN, A LOAN:

(I) UNDER AN OPEN-END CREDIT PLAN AS DEFINED IN 12 C.F.R. § 1026.2; OR

(II) THAT IS SECURED BY REAL PROPERTY”.

On pages 2 and 3, strike beginning with “, NOTWITHSTANDING” in line 31 on page 2 down through “EXPENSES” in line 3 on page 3.

On page 3, in line 13, strike “RECEIVING THE BENEFIT OF” and substitute “HAVING THE AUTHORITY TO CONTROL”; and in line 15, strike “A” and substitute “EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW OR A COURT ORDER, A”.

(Over)

On page 4, strike beginning with “APPLY” in line 5 down through “BORROWER” in line 7 and substitute “IF THE STUDENT LOAN BORROWER DIRECTS AN ALLOCATION OF PAYMENTS AT THE TIME THE PAYMENT IS MADE, ALLOCATE A NONCONFORMING PAYMENT IN A MANNER OTHER THAN AS DIRECTED BY THE STUDENT LOAN BORROWER”; strike beginning with the colon in line 9 down through “A” in line 10 and substitute “A”; and strike beginning with “OR” in line 10 down through the semicolon in line 15.

On page 5, in line 7, strike “A” and substitute “UNLESS A RESPONSE TO THE WRITTEN INQUIRY IS INCLUDED IN THE ACKNOWLEDGMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A”; in line 23, strike “IF” and substitute “EXCEPT WHERE OTHERWISE REQUIRED BY FEDERAL LAW, A COURT ORDER, OR A STUDENT LOAN AGREEMENT, IF”; and strike beginning with “NOTIFY” in line 25 down through “ACCOUNT” in line 29 and substitute “ALLOCATE THE PAYMENT ACCORDING TO THE DISCLOSED ALLOCATION METHODOLOGY; OR

(2) IN ACCORDANCE WITH FEDERAL LAW OR THE STUDENT EDUCATION LOAN AGREEMENT, COMPLY WITH A REQUEST BY THE STUDENT LOAN BORROWER ON HOW THE STUDENT LOAN BORROWER WOULD PREFER THE STUDENT LOAN SERVICER TO ALLOCATE THE NONCONFORMING PAYMENT TO THE STUDENT LOAN BORROWER’S ACCOUNT”.

On page 6, after line 4, insert:

“26-604.

(A) THE COMMISSIONER OF FINANCIAL REGULATION MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE BY EXERCISING ANY OF THE POWERS PROVIDED UNDER §§ 2-113 THROUGH 2-116 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(B) (1) THE COMMISSIONER OF FINANCIAL REGULATION MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON WHO HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF THIS SUBTITLE FROM ENGAGING IN OR CONTINUING TO ENGAGE IN THE VIOLATION.

(2) THE COURT MAY ENTER ANY ORDER OR JUDGMENT NECESSARY TO:

(I) PREVENT THE USE BY A PERSON OF A PROHIBITED PRACTICE;

(II) RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF A PROHIBITED PRACTICE; OR

(III) APPOINT A RECEIVER IN A CASE OF A WILLFUL VIOLATION OF THIS SUBTITLE.

(3) IN ANY ACTION BROUGHT BY THE COMMISSIONER OF FINANCIAL REGULATION UNDER THIS SUBSECTION, THE COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.

(C) THE COMMISSIONER OF FINANCIAL REGULATION MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE BY REQUIRING A VIOLATOR TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO A PERSON AGGRIEVED BY THE VIOLATION.

(D) THE COMMISSIONER OF FINANCIAL REGULATION MAY:

(1) INVESTIGATE VIOLATIONS OF THIS SUBTITLE; AND

(2) AID ANY OTHER UNIT OF STATE GOVERNMENT THAT HAS REGULATORY JURISDICTION OVER THE BUSINESS ACTIVITIES OF THE VIOLATOR.

(E) THE COMMISSIONER OF FINANCIAL REGULATION MAY COOPERATE IN THE INVESTIGATION AND PROSECUTION OF ANY VIOLATION OF THIS SUBTITLE WITH THE OFFICE OF THE ATTORNEY GENERAL, THE STATE'S ATTORNEY, OR ANY OTHER UNIT OF LAW ENFORCEMENT.

Article – Financial Institutions

2-104.1.

[(h) On or before January 1 each year, the Commissioner shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

(1) The implementation of the Student Loan Ombudsman and related provisions under this section; and

(2) The overall effectiveness of the Student Loan Ombudsman position.]

(H) THE STUDENT LOAN OMBUDSMAN MAY REFER ANY COMPLAINT FROM STUDENT LOAN BORROWERS TO THE COMMISSIONER FOR INVESTIGATION UNDER § 26-604 OF THE EDUCATION ARTICLE.

11-610.

(c) The purpose of the Fund is to cover the direct and indirect costs of fulfilling the statutory and regulatory duties of the Commissioner and the State Collection Agency Licensing Board related to:

(14) Title 7, Subtitles 1, 3, 4, and 5 of the Real Property Article; [and]

(15) TITLE 26, SUBTITLE 6 OF THE EDUCATION ARTICLE; AND

[(15)](16) Any other expense authorized in the State budget.”.