

Chapter 456

(House Bill 913)

AN ACT concerning

Financial Institutions – Student Financing Companies – Required Registration and Reporting

FOR the purpose of requiring student financing companies to register with the Commissioner of Financial Regulation; requiring student financing companies to report certain information to the Commissioner; and generally relating to student financing companies.

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 1–101(a) and (g)
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

BY adding to
Article – Financial Institutions
Section 12–1101 through 12–1105 to be under the new subtitle “Subtitle 11. Student Financing Companies”
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

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

Article – Financial Institutions

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(g) “Commissioner” means the Commissioner of Financial Regulation in the Maryland Department of Labor.

SUBTITLE 11. STUDENT FINANCING COMPANIES.

12–1101.

(A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) (1) “INSTITUTION OF POSTSECONDARY EDUCATION” HAS THE MEANING STATED IN § 10–101 OF THE EDUCATION ARTICLE.

(2) “INSTITUTION OF POSTSECONDARY EDUCATION” INCLUDES AN INSTITUTION THAT:

(I) 1. IS NOT ACCREDITED BY AN ACCREDITED BODY RECOGNIZED AND APPROVED BY THE U.S. DEPARTMENT OF EDUCATION; OR

2. IS NOT AUTHORIZED TO OPERATE IN THE STATE; AND

(II) CONDUCTS EDUCATION BY CORRESPONDENCE, ONLINE, OR IN PERSON.

(C) (1) “STUDENT FINANCING” MEANS AN EXTENSION OF CREDIT TO A CONSUMER, CONTRACTUAL OR OTHERWISE, CONTINGENT OR ABSOLUTE, THAT IS:

(I) NOT MADE, INSURED, OR GUARANTEED UNDER TITLE IV OF THE FEDERAL HIGHER EDUCATION ACT OF 1965;

(II) EXTENDED TO A CONSUMER EXPRESSLY, IN WHOLE OR IN PART, FOR POSTSECONDARY EDUCATIONAL EXPENSES, REGARDLESS OF WHETHER THE EXTENSION OF CREDIT IS PROVIDED BY THE INSTITUTION OF POSTSECONDARY EDUCATION THAT THE CONSUMER ATTENDS; AND

(III) NOT A LOAN SECURED BY REAL PROPERTY OR A DWELLING.

(2) “STUDENT FINANCING” INCLUDES ~~AN~~:

(I) AN EXTENSION OF CREDIT USED TO REFINANCE OR REPAY EXISTING STUDENT FINANCING OR FEDERAL STUDENT LOAN DEBT; AND

(II) FINANCIAL OBLIGATIONS IN WHICH THE REPAYMENT AMOUNT IS EQUAL TO A PREDETERMINED PERCENTAGE OF A CONSUMER’S FUTURE INCOME.

(D) (1) “STUDENT FINANCING COMPANY” MEANS AN ~~INSTITUTION ENTITY~~ ENGAGED IN THE BUSINESS OF SECURING, MAKING, OR EXTENDING ~~CREDIT TO A CONSUMER FOR PURPOSES OF PAYING FOR EXPENSES RELATED TO POSTSECONDARY EDUCATION~~ STUDENT FINANCING PRODUCTS, OR ANY PURCHASER, ASSIGNEE, OR HOLDER OF STUDENT FINANCING PRODUCTS.

(2) “STUDENT FINANCING COMPANY” DOES NOT INCLUDE, TO THE EXTENT THAT STATE REGULATION IS PREEMPTED BY FEDERAL LAW:

(I) A BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION;

(II) A WHOLLY OWNED SUBSIDIARY OF A BANK OR CREDIT UNION; OR

(III) AN OPERATING SUBSIDIARY WHERE EACH OWNER IS WHOLLY OWNED BY THE SAME BANK OR CREDIT UNION.

12-1102.

(A) BEGINNING MARCH 15, 2024, A STUDENT FINANCING COMPANY SHALL REGISTER WITH THE COMMISSIONER AS A STUDENT FINANCING COMPANY BEFORE PROVIDING SERVICES IN THE STATE.

(B) AN APPLICATION FOR REGISTRATION SHALL INCLUDE:

(1) THE STUDENT FINANCING COMPANY’S NAME;

(2) THE STUDENT FINANCING COMPANY’S ADDRESS;

(3) THE NAME OF ALL OFFICERS, DIRECTORS, PARTNERS, AND OWNERS OF CONTROLLING INTERESTS OF THE STUDENT FINANCING COMPANY;

(4) THE ADDRESSES OF ALL OFFICERS, DIRECTORS, PARTNERS, AND OWNERS OF CONTROLLING INTERESTS IN THE STUDENT FINANCING COMPANY; AND

(5) ANY OTHER INFORMATION THAT THE COMMISSIONER REQUIRES BY REGULATION.

(C) A STUDENT FINANCING COMPANY SHALL RENEW ITS REGISTRATION ON AN ANNUAL BASIS, AND MAY BE REQUIRED TO PAY A FEE AT THE TIME OF RENEWAL.

(D) THE COMMISSIONER MAY ADOPT AND ENFORCE:

(1) REGISTRATION PROCEDURES FOR STUDENT FINANCING COMPANIES, ~~INCLUDING PROCEDURES FOR RENEWING A REGISTRATION; AND~~ WHICH MAY INCLUDE THE USE OF NMLS;

(2) REGISTRATION FEES FOR STUDENT FINANCING COMPANIES, WHICH MAY INCLUDE FEES FOR THE USE OF NMLS, TO BE PAID DIRECTLY BY THE STUDENT FINANCING COMPANY;

(3) PROCEDURES AND FEES FOR RENEWING A STUDENT FINANCING COMPANY'S REGISTRATION, WHICH MAY INCLUDE FEES FOR THE RENEWED USE OF NMLS, TO BE PAID DIRECTLY BY THE STUDENT FINANCING COMPANY; AND

(2) (4) ALTERNATE REGISTRATION PROCEDURES AND FEES FOR INSTITUTIONS OF POSTSECONDARY EDUCATION THAT OFFER STUDENT FINANCING PRODUCTS.

12-1103.

(A) ON OR BEFORE MARCH 15, 2024, AND MARCH 15 EACH YEAR THEREAFTER:

(1) A STUDENT FINANCING COMPANY THAT SECURES, MAKES, OR EXTENDS STUDENT FINANCING IN THE STATE SHALL REPORT TO THE COMMISSIONER ON THE FORM THE COMMISSIONER PROVIDES:

(I) A LIST OF ALL SCHOOLS ATTENDED BY CONSUMERS WHO RECEIVED STUDENT FINANCING FROM THE STUDENT FINANCING COMPANY AND RESIDED WITHIN THE STATE AT THE TIME OF THE TRANSACTION AND WHOSE DEBT IS STILL OUTSTANDING, INCLUDING STUDENT FINANCING USED TO REFINANCE AN EXISTING DEBT;

(II) THE TOTAL OUTSTANDING DOLLAR AMOUNT OWED BY CONSUMERS RESIDING IN THE STATE WHO RECEIVED STUDENT FINANCING FROM THE STUDENT FINANCING COMPANY ~~AND RESIDED IN THE STATE AT THE TIME OF THE TRANSACTION;~~

(III) THE TOTAL NUMBER OF STUDENT FINANCING PRODUCTS PROVIDED BY OWED BY CONSUMERS RESIDING IN THE STATE WHO RECEIVED STUDENT FINANCING FROM THE STUDENT FINANCING COMPANY ~~TO CONSUMERS WHO RESIDED IN THE STATE AT THE TIME OF THE TRANSACTION;~~

(IV) THE TOTAL OUTSTANDING DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS OWED BY CONSUMERS WHO ~~RESIDED~~ RESIDE IN THE STATE ~~AT THE TIME OF THE TRANSACTION~~, ASSOCIATED WITH EACH SCHOOL IDENTIFIED UNDER ITEM (I) OF THIS ITEM;

(V) THE TOTAL DOLLAR AMOUNT OF STUDENT FINANCING PRODUCTS PROVIDED BY THE STUDENT FINANCING COMPANY TO CONSUMERS WHO RESIDED IN THE STATE IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

(VI) THE TOTAL NUMBER OF STUDENT FINANCING PRODUCTS PROVIDED BY THE STUDENT FINANCING COMPANY TO CONSUMERS WHO RESIDED IN THE STATE IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

(VII) THE TOTAL OUTSTANDING DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS OWED BY CONSUMERS WHO RESIDED IN THE STATE, ASSOCIATED WITH EACH SCHOOL IDENTIFIED UNDER ITEM (I) OF THIS ITEM, THAT WERE PROVIDED IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

(VIII) THE RATE OF DEFAULT FOR CONSUMERS RESIDING IN THE STATE WHO OBTAINED STUDENT FINANCING FROM THE STUDENT FINANCING COMPANY, IF APPLICABLE;

(IX) THE RATE OF DEFAULT FOR CONSUMERS RESIDING IN THE STATE WHO OBTAINED STUDENT FINANCING FROM THE STUDENT FINANCING COMPANY ASSOCIATED WITH EACH SCHOOL IDENTIFIED UNDER ITEM (I) OF THIS ITEM, IF APPLICABLE;

(X) THE RANGE OF INITIAL INTEREST RATES FOR STUDENT FINANCING PRODUCTS PROVIDED BY THE STUDENT FINANCING COMPANY TO CONSUMERS WHO RESIDED IN THE STATE IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

(XI) OF THE TOTAL NUMBER OF CONSUMERS WHO RECEIVED STUDENT FINANCING PRODUCTS UNDER ITEM (X) OF THIS ITEM, THE PERCENTAGE OF CONSUMERS WHO RECEIVED EACH RATE IDENTIFIED UNDER ITEM (X) OF THIS ITEM;

(XII) THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS PROVIDED IN THE PRIOR FISCAL YEAR BY THE STUDENT FINANCING COMPANY TO CONSUMERS WHO RESIDED IN THE STATE AT THE TIME OF THE TRANSACTION AND HAD A COSIGNER FOR THE STUDENT FINANCING PRODUCT;

(XIII) THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS PROVIDED BY THE STUDENT FINANCING COMPANY TO CONSUMERS RESIDING IN THE STATE USED TO REFINANCE A PRIOR STUDENT FINANCING PRODUCT OR FEDERAL STUDENT LOAN IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

(XIV) THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS FOR WHICH THE STUDENT FINANCING COMPANY HAD SUED

TO COLLECT FROM A CONSUMER RESIDING IN THE STATE IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

(XV) A COPY OF ~~THE~~ ANY MODEL PROMISSORY NOTE, AGREEMENT, CONTRACT, OR OTHER INSTRUMENT USED BY THE STUDENT FINANCING COMPANY IN THE PREVIOUS ~~CALENDAR~~ FISCAL YEAR TO SUBSTANTIATE:

~~1. THAT STUDENT FINANCING HAS BEEN EXTENDED TO A CONSUMER RESIDING IN THE STATE; OR~~

~~2. THAT THAT A CONSUMER IDENTIFIED IN ITEM 1 OF THIS ITEM OWES A NEW DEBT TO THE STUDENT FINANCING COMPANY; AND~~

(XVI) ANY OTHER INFORMATION CONSIDERED NECESSARY BY THE COMMISSIONER TO ASSESS THE TOTAL SIZE AND STATUS OF THE STUDENT FINANCING MARKET AND WELL-BEING OF CONSUMERS IN THE STATE; AND

(2) A STUDENT FINANCING COMPANY THAT ACQUIRES OR ASSUMES STUDENT FINANCING PRODUCTS IN THE STATE SHALL REPORT TO THE COMMISSIONER ON THE FORM THE COMMISSIONER PROVIDES:

(I) A LIST OF ALL SCHOOLS ATTENDED BY CONSUMERS RESIDING IN THE STATE WHO USED ~~THE~~, FOR ATTENDANCE, ANY OUTSTANDING STUDENT FINANCING PRODUCTS ASSUMED OR ACQUIRED BY THE STUDENT FINANCING COMPANY;

~~(II) A LIST OF ALL THE SCHOOLS ATTENDED BY CONSUMERS RESIDING IN THE STATE THROUGH THE USE OF INITIAL STUDENT FINANCING PRODUCTS THAT WERE REFINANCED AND THEN ASSUMED OR ACQUIRED BY THE STUDENT FINANCING COMPANY;~~

~~(III)~~ (II) THE TOTAL OUTSTANDING DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS THAT HAVE BEEN ACQUIRED OR ASSUMED BY THE STUDENT FINANCING COMPANY AND ~~PROVIDED TO~~ OWED BY CONSUMERS WHO RESIDE IN THE STATE;

~~(IV)~~ (III) THE TOTAL OUTSTANDING DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS OWED BY CONSUMERS WHO RESIDE IN THE STATE THAT HAVE BEEN ASSUMED OR ACQUIRED BY THE STUDENT FINANCING COMPANY, ASSOCIATED WITH EACH SCHOOL IDENTIFIED UNDER ~~ITEMS (I) AND (II)~~ ITEM (I) OF THIS ITEM;

~~(V)~~ (IV) THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS OWED BY CONSUMERS WHO RESIDED IN THE STATE THAT WERE ACQUIRED OR ASSUMED BY THE STUDENT FINANCING COMPANY IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR;

~~(VI)~~ (V) THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS THAT WERE ACQUIRED OR ASSUMED BY THE STUDENT FINANCING COMPANY AND ~~PROVIDED TO~~ OWED BY CONSUMERS WHO RESIDED IN THE STATE IN THE PRIOR YEAR, ASSOCIATED WITH EACH SCHOOL IDENTIFIED UNDER ~~ITEMS (I) AND (II)~~ ITEM (I) OF THIS ITEM;

~~(VII)~~ (VI) THE RATE OF DEFAULT FOR STUDENT FINANCING PRODUCTS ACQUIRED OR ASSUMED BY THE STUDENT FINANCING COMPANY, IF APPLICABLE;

~~(VIII)~~ (VII) THE RATE OF DEFAULT FOR STUDENT FINANCING PRODUCTS ACQUIRED OR ASSUMED BY THE STUDENT FINANCING COMPANY ASSOCIATED WITH EACH SCHOOL IDENTIFIED UNDER ~~ITEMS (I) AND (II)~~ ITEM (I) OF THIS ITEM, IF APPLICABLE;

~~(IX)~~ (VIII) THE TOTAL OUTSTANDING DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS ~~PROVIDED TO~~ OWED BY CONSUMERS RESIDING IN THE STATE WHO HAD A COSIGNER FOR THE STUDENT FINANCING PRODUCT, IF APPLICABLE;

~~(X)~~ (IX) THE TOTAL OUTSTANDING DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS ~~PROVIDED BY THE STUDENT FINANCING COMPANY TO~~ THAT WERE ACQUIRED OR ASSUMED BY THE STUDENT FINANCING COMPANY AND OWED BY CONSUMERS RESIDING IN THE STATE TO REFINANCE A PRIOR STUDENT FINANCING PRODUCT OR FEDERAL STUDENT LOAN;

~~(XI)~~ ~~THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS PROVIDED TO CONSUMERS RESIDING IN THE STATE FOR WHICH THE STUDENT FINANCING COMPANY HAS SUED TO COLLECT FROM CONSUMERS;~~

~~(XII)~~ ~~THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS PROVIDED BY THE STUDENT FINANCING COMPANY TO CONSUMERS RESIDING IN THE STATE USED TO REFINANCE A PRIOR STUDENT FINANCING PRODUCT IN THE PRIOR CALENDAR YEAR;~~

~~(XIII)~~ (X) THE TOTAL DOLLAR AMOUNT AND NUMBER OF STUDENT FINANCING PRODUCTS FOR WHICH THE STUDENT FINANCING COMPANY

HAD SUED TO COLLECT FROM CONSUMERS RESIDING IN THE STATE IN THE PRIOR ~~CALENDAR~~ FISCAL YEAR; AND

~~(XIV)~~ (XI) ANY OTHER INFORMATION CONSIDERED NECESSARY BY THE COMMISSIONER TO ASSESS THE TOTAL SIZE AND STATUS OF THE STUDENT FINANCING MARKET AND WELL-BEING OF CONSUMERS IN THE STATE.

(B) THE COMMISSIONER MAY ESTABLISH A PROCESS FOR REPORTING THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO AVOID THE DUPLICATIVE REPORTING OF INFORMATION BY STUDENT FINANCING COMPANIES TO THE COMMISSIONER IF A STUDENT FINANCING COMPANY IS REQUIRED TO REPORT THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO THE COMMISSIONER UNDER ANOTHER PROVISION OF STATE OR FEDERAL LAW.

(C) ON OR BEFORE JUNE 15, 2024, AND EACH JUNE 15 THEREAFTER, THE COMMISSIONER SHALL MAKE THE INFORMATION AND DOCUMENTS REPORTED BY STUDENT FINANCING COMPANIES UNDER SUBSECTION (A) OF THIS SECTION AVAILABLE ON A PUBLICLY ACCESSIBLE WEBSITE DEVELOPED AND MAINTAINED BY THE COMMISSIONER.

12-1104.

THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

12-1105.

(A) (1) THE COMMISSIONER MAY USE THE INVESTIGATIVE AND ENFORCEMENT POWERS PROVIDED UNDER §§ 2-113 THROUGH 2-116 OF THIS ARTICLE TO ENFORCE THIS SUBTITLE.

(2) IN ADDITION TO THE COMMISSIONER, THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY FOR THE COUNTY IN WHICH A VIOLATION OCCURS MAY ENFORCE THE REQUIREMENTS OF THIS SUBTITLE AND USE THE SAME INVESTIGATIVE AND ENFORCEMENT POWERS APPLICABLE TO THE COMMISSIONER UNDER §§ 2-113 THROUGH 2-116 OF THIS ARTICLE.

(B) A STUDENT FINANCING PRODUCT PROVIDED OR ACQUIRED BY A STUDENT FINANCING COMPANY THAT IS OWED BY A RESIDENT OF THE STATE SHALL BE VOID AND UNENFORCEABLE IF THE COMMISSIONER FINDS, AFTER NOTICE AND A HEARING, THAT A STUDENT FINANCING COMPANY HAS KNOWINGLY VIOLATED THIS SUBTITLE, AT THE TIME THAT THE PRODUCT WAS PROVIDED OR ACQUIRED, BY:

(1) FAILING TO COMPLY WITH ANY REGISTRATION OR REPORTING REQUIREMENT; OR

(2) FURNISHING INACCURATE INFORMATION TO THE COMMISSIONER.

(c) THE COMMISSIONER MAY ORDER A PERSON BARRED FROM ACTING AS A STOCKHOLDER, AN OFFICER, A DIRECTOR, A PARTNER, AN OWNER, OR AN EMPLOYEE OF A STUDENT FINANCING COMPANY FOR A TERM OF 10 YEARS OR LESS IF THE PERSON HAS:

(1) BEEN FOUND TO HAVE KNOWINGLY VIOLATED ANY PROVISION OF THIS SUBTITLE OR REGULATION ADOPTED UNDER THIS SUBTITLE; AND

(2) CAUSED FINANCIAL HARM TO A CONSUMER.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

Approved by the Governor, May 8, 2023.