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Colorado Enacts Student Loan Servicer Licensing Law and Maryland Expands Regulation of Servicers

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Colorado and Maryland have each enacted legislation regulating student loan servicers. On May 13, Colorado Governor Jared Polis (D) signed into law [SB 19-002](#), and that same day, Maryland Governor Larry Hogan (R) signed [HB 594](#).

The Colorado law, SB19-002, is the more sweeping of the two, establishing a licensing requirement for student loan servicers, similar to what has been enacted in [California](#), [Connecticut](#), the [District of Columbia](#), [Illinois](#), [Washington](#), and more recently, [New York](#). Titled the “Colorado Student Loan Servicers Act,” SB19-002 will require servicers of education loans owed by Colorado residents to be licensed by Colorado’s Uniform Consumer Credit Code (UCCC) Administrator. The law also:

- Prohibits servicers from “defrauding or misleading borrowers, omitting material information, misapplying student loan payments, providing inaccurate information to a credit bureau, or failing to evaluate a borrower for an income-based repayment program where available,” among other requirements;
- Requires servicers to keep records of each student loan transaction;
- Grants Colorado’s UCCC administrator authority to conduct investigations, as well as “direct, subpoena, or order the attendance of and examine under oath any person whose testimony or records may be required”;
- Establishes a Student Loan Ombudsperson to assist borrowers by responding to complaints, analyzing data, and creating education materials/courses; and
- Makes any violation of the law a deceptive trade practice.

Collection agencies are completely exempt as long as they are collecting or attempting to collect on defaulted student loans. A collection agency that also collects or attempts to collect student loans that are not in default is considered to be a student loan servicer. For these purposes, a federal student loan is deemed to be in default if no payment has been received for 270 days or more but whether a private student loan is in default is determined by the terms of the loan documents.

Notably, the law only exempts federal student loan servicing contractors from licensing *application* requirements, providing that any such servicer will automatically be issued a license upon payment of the requisite fees. The statute provides for an initial license fee of at least \$1,000, an annual renewal fee of at least \$1,000, and an investigation fee, all of which may be reduced or increased by the UCCC Administrator.

The law’s apparent effective date is August 2, 2019,

In Maryland, the new legislation is more limited in scope. Readers may recall that last year Maryland enacted [legislation](#) creating the post of Student Loan Ombudsman, but the “Financial Consumer Protection Act of 2018” fell short of establishing a licensing requirement for servicers. HB 594 likewise does not raise the issue of licensure. Rather, the law prohibits student loan servicers from engaging in certain conduct, including, among other things, any of the following:

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- Employing any scheme, device, or artifice to mislead a student loan borrower;
- Engaging in any unfair, abusive, or deceptive trade practice; or
- Knowingly misapplying or refusing to correct a misapplication of payments; or
- Failing to apply non-conforming payments as directed by the borrower.

The law also requires student loan servicers to respond to inquiries and complaints within 30 days of receipt, and grants enforcement authority to the Office of the Commissioner of Financial Regulation. Finally, any violation of the new law is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act.

The effective date is generally October 1, 2019, but the provisions for the allocation of non-conforming payments do not take effect until February 1, 2020.

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