

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1589

By: Provenzano

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6 AS INTRODUCED

7 An Act relating to debtor and creditor; creating the
8 Oklahoma Student Borrower's Bill of Rights Act;
9 defining terms; directing the Attorney General to
10 prepare certain statement and make available to
11 public; prohibiting certain actions by student loan
12 servicers; providing for codification; and providing
13 an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 170 of Title 24, unless there is
17 created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Oklahoma
19 Student Borrower's Bill of Rights Act".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 171 of Title 24, unless there is
22 created a duplication in numbering, reads as follows:

23 As used in the Oklahoma Student Borrower's Bill of Rights Act:

24 1. "Guarantor" means a nonprofit or state organization that
works with a lender, servicer, school and the State Department of

1 Education to help students successfully repay certain federal
2 student loans;

3 2. "Student loan borrower" means:

4 a. any resident of this state who has received or agreed
5 to pay a student education loan, or

6 b. any person who shares responsibility with such
7 resident for repaying the student education loan;

8 3. "Student loan servicer" means any person, wherever located,
9 responsible for the servicing of any student education loan to any
10 student loan borrower;

11 4. "Servicing" means:

12 a. receiving any scheduled periodic payments from a
13 student loan borrower pursuant to the terms of a
14 student education loan,

15 b. applying the payments of principal and interest and
16 such other payments with respect to the amounts
17 received from a student loan borrower, as may be
18 required pursuant to the terms of a student education
19 loan, and

20 c. performing other administrative services with respect
21 to a student education loan.

22 Servicing does not include default aversion efforts provided by
23 state or nonprofit guaranty agencies as required by their agreement
24

1 with the U.S. Department of Education under the Higher Education Act
2 of 2008; and

3 5. "Student education loan" means any loan extended to a
4 student loan borrower expressly to finance postsecondary education
5 expenses or other postsecondary-school-related expenses and shall
6 not include open-end credit or any loan secured by real property.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 172 of Title 24, unless there is
9 created a duplication in numbering, reads as follows:

10 A. The Attorney General shall prepare a written statement that
11 includes an "Oklahoma Student Borrower's Bill of Rights" for a
12 student loan borrower who takes out a student education loan that is
13 serviced by a student loan servicer. The statement shall
14 incorporate all items from subsection B of this section and be made
15 available to the public and written in plain language designed to be
16 easily understood by the average student loan borrower.

17 B. No student loan servicer shall:

18 1. Directly employ any scheme, device or artifice to defraud or
19 mislead student loan borrowers;

20 2. Negligently or intentionally engage in any unfair or
21 deceptive practice toward any person or knowingly misrepresent or
22 omit any material information in connection with the servicing of a
23 student education loan, including, but not limited to,
24 misrepresenting the amount, nature or terms of any fee or payment

1 due or claimed to be due on a student education loan, the terms and
2 conditions of the loan agreement or the borrower's obligations under
3 the loan;

4 3. Obtain property by fraud or misrepresentation;

5 4. Apply student education loan payments to the outstanding
6 balance of a student education loan other than as provided in the
7 student education loan agreement or by law;

8 5. Negligently or intentionally provide inaccurate information
9 to a credit bureau, thereby harming a student loan borrower's
10 creditworthiness;

11 6. Fail to report both the favorable and unfavorable payment
12 history of the student loan borrower to a nationally recognized
13 consumer credit bureau at least annually if the student loan
14 servicer regularly reports information to a credit bureau, except in
15 the case of loan rehabilitation;

16 7. Refuse to communicate with an authorized representative of
17 the student loan borrower who provides a written authorization
18 signed by the student loan borrower; provided, the student loan
19 servicer may adopt procedures reasonably related to verifying that
20 the representative is in fact authorized to act on behalf of the
21 student loan borrower;

22 8. Negligently or intentionally make any false statement or
23 knowingly or willfully make any omission of a material fact in
24 connection with any information or reports filed with a governmental

1 agency or in connection with any investigation conducted by a
2 governmental agency;

3 9. Fail to inform federal student education loan borrowers of
4 the federal income repayment options before offering deferment or
5 forbearance as an option; or

6 10. Fail to inform federal student education loan borrowers if
7 their type of loan does not qualify for federal loan forgiveness
8 programs.

9 SECTION 4. This act shall become effective November 1, 2021.

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