

HB4397



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4397

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

110 ILCS 992/1-5

Amends the Student Loan Servicing Rights Act. Provides that, as used in the Act, "student loan servicer" does not include a law firm or licensed attorney that is collecting post-default debt. Effective December 31, 2018.

LRB100 17085 AXK 32236 b

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Student Loan Servicing Rights Act is amended
5 by changing Section 1-5 as follows:

6 (110 ILCS 992/1-5)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 Sec. 1-5. Definitions. As used in this Act:

10 "Applicant" means a person applying for a license pursuant
11 to this Act.

12 "Borrower" or "student loan borrower" means a person who
13 has received or agreed to pay a student loan for his or her own
14 educational expenses.

15 "Cosigner" means a person who has agreed to share
16 responsibility for repaying a student loan with a borrower.

17 "Department" means the Department of Financial and
18 Professional Regulation.

19 "Division of Banking" means the Division of Banking of the
20 Department of Financial and Professional Regulation.

21 "Federal loan borrower eligible for referral to a repayment
22 specialist" means a borrower who possesses any of the following
23 characteristics:

1 (1) requests information related to options to reduce
2 or suspend his or her monthly payment;

3 (2) indicates that he or she is experiencing or
4 anticipates experiencing financial hardship, distress, or
5 difficulty making his or her payments;

6 (3) has missed 2 consecutive monthly payments;

7 (4) is at least 75 days delinquent;

8 (5) is enrolled in a discretionary forbearance for more
9 than 9 of the previous 12 months;

10 (6) has rehabilitated or consolidated one or more loans
11 out of default within the past 12 months; or

12 (7) has not completed a course of study, as reflected
13 in the servicer's records, or the borrower identifies
14 himself or herself as not having completed a program of
15 study.

16 "Federal education loan" means any loan made, guaranteed,
17 or insured under Title IV of the federal Higher Education Act
18 of 1965.

19 "Income-driven payment plan certification" means the
20 documentation related to a federal student loan borrower's
21 income or financial status the borrower must submit to renew an
22 income-driven repayment plan.

23 "Income-driven repayment options" includes the
24 Income-Contingent Repayment Plan, the Income-Based Repayment
25 Plan, the Income-Sensitive Repayment Plan, the Pay As You Earn
26 Plan, the Revised Pay As You Earn Plan, and any other federal

1 student loan repayment plan that is calculated based on a
2 borrower's income.

3 "Licensee" means a person licensed pursuant to this Act.

4 "Other repayment plans" means the Standard Repayment Plan,
5 the Graduated Repayment Plan, the Extended Repayment Plan, or
6 any other federal student loan repayment plan not based on a
7 borrower's income.

8 "Private loan borrower eligible for referral to a repayment
9 specialist" means a borrower who possesses any of the following
10 characteristics:

11 (1) requests information related to options to reduce
12 or suspend his or her monthly payments; or

13 (2) indicates that he or she is experiencing or
14 anticipates experiencing financial hardship, distress, or
15 difficulty making his or her payments.

16 "Requester" means any borrower or cosigner that submits a
17 request for assistance.

18 "Request for assistance" means all inquiries, complaints,
19 account disputes, and requests for documentation a servicer
20 receives from borrowers or cosigners.

21 "Secretary" means the Secretary of Financial and
22 Professional Regulation, or his or her designee, including the
23 Director of the Division of Banking of the Department of
24 Financial and Professional Regulation.

25 "Servicing" means: (1) receiving any scheduled periodic
26 payments from a student loan borrower or cosigner pursuant to

1 the terms of a student loan; (2) applying the payments of
2 principal and interest and such other payments with respect to
3 the amounts received from a student loan borrower or cosigner,
4 as may be required pursuant to the terms of a student loan; and
5 (3) performing other administrative services with respect to a
6 student loan.

7 "Student loan" or "loan" means any federal education loan
8 or other loan primarily for use to finance a postsecondary
9 education and costs of attendance at a postsecondary
10 institution, including, but not limited to, tuition, fees,
11 books and supplies, room and board, transportation, and
12 miscellaneous personal expenses. "Student loan" includes a
13 loan made to refinance a student loan.

14 "Student loan" shall not include an extension of credit
15 under an open-end consumer credit plan, a reverse mortgage
16 transaction, a residential mortgage transaction, or any other
17 loan that is secured by real property or a dwelling.

18 "Student loan" shall not include an extension of credit
19 made by a postsecondary educational institution to a borrower
20 if one of the following apply:

21 (1) The term of the extension of credit is no longer
22 than the borrower's education program.

23 (2) The remaining, unpaid principal balance of the
24 extension of credit is less than \$1,500 at the time of the
25 borrower's graduation or completion of the program.

26 (3) The borrower fails to graduate or successfully

1 complete his or her education program and has a balance due
2 at the time of his or her disenrollment from the
3 postsecondary institution.

4 "Student loan servicer" or "servicer" means any person
5 engaged in the business of servicing student loans.

6 "Student loan servicer" shall not include:

7 (1) a bank, savings bank, savings association, or
8 credit union organized under the laws of the State or any
9 other state or under the laws of the United States;

10 (2) a wholly owned subsidiary of any bank, savings
11 bank, savings association, or credit union organized under
12 the laws of the State or any other state or under the laws
13 of the United States;

14 (3) an operating subsidiary where each owner of the
15 operating subsidiary is wholly owned by the same bank,
16 savings bank, savings association, or credit union
17 organized under the laws of the State or any other state or
18 under the laws of the United States;

19 (4) the Illinois Student Assistance Commission and its
20 agents when the agents are acting on the Illinois Student
21 Assistance Commission's behalf;

22 (5) a public postsecondary educational institution or
23 a private nonprofit postsecondary educational institution
24 servicing a student loan it extended to the borrower;

25 (6) a licensed debt management service under the Debt
26 Management Service Act, except to the extent that the

1 organization acts as a subcontractor, affiliate, or
2 service provider for an entity that is otherwise subject to
3 licensure under this Act;

4 (7) any collection agency licensed under the
5 Collection Agency Act that is collecting post-default
6 debt;

7 (8) in connection with its responsibilities as a
8 guaranty agency engaged in default aversion, a State or
9 nonprofit private institution or organization having an
10 agreement with the U.S. Secretary of Education under
11 Section 428(b) of the Higher Education Act (20 U.S.C.
12 1078(B)); ~~or~~

13 (9) a State institution or a nonprofit private
14 organization designated by a governmental entity to make or
15 service student loans, provided in each case that the
16 institution or organization services fewer than 20,000
17 student loan accounts of borrowers who reside in Illinois;
18 or;

19 (10) a law firm or licensed attorney that is collecting
20 post-default debt.

21 (Source: P.A. 100-540, eff. 12-31-18.)

22 Section 99. Effective date. This Act takes effect December
23 31, 2018.