1440-S2 AMH STON MULV 141

**2SHB 1440** - H AMD **121**

By Representative Stonier

**ADOPTED 03/01/2017**

On page 5, beginning on line 19, strike all of section 5, and insert the following:

"NEW SECTION. **Sec. 5.** A new section is added to chapter 31.04 RCW to read as follows:

(1) In addition to complying with any applicable federal program requirements, a student education loan servicer must comply with the following requirements:

(a) Any fee that is assessed by a student education loan servicer must be assessed within forty-five days of the date on which the fee was incurred and must be explained clearly and conspicuously in a statement mailed to the student education loan borrower at the student education loan borrower's last known address no more than thirty days after assessing the fee, or provided via email if the student education loan borrower has assented to receive electronic communications;

(b) All amounts received by a student education loan servicer on a student education loan at the address where the student education loan borrower has been instructed to make payments must be accepted and credited, or treated as credited, within one business day of the date received, provided that the student education loan borrower has provided sufficient information to credit the account. If a student education loan servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. If any payment is received and not credited, or treated as credited, the student education loan borrower must be notified of the disposition of the payment within ten business days by mail at the student education loan borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the student education loan borrower must take to make the student education loan current;

(c) The student education loan servicer must make reasonable attempts to comply with a student education loan borrower's request for information about the student education loan account and to respond to any dispute initiated by the student education loan borrower about the student education loan account. The student education loan servicer:

(i) Must maintain written or electronic records of each written request for information regarding a dispute or error involving the student education loan borrower's account until the student education loan is paid in full, sold, or otherwise satisfied; and

(ii) Must provide a written statement to the student education loan borrower within fifteen business days of receipt of a written request from the student education loan borrower. The student education loan borrower's request must include the name and account number, if any, of the student education loan borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the student education loan borrower to permit the student education loan servicer to comply. At a minimum, the student education loan servicer's response to the student education loan borrower's request must include the following information:

(A) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(B) The current balance due on the student education loan, including the principal due, the amount of funds, if any, held in a suspense account, if any, and whether there are any shortages known to the student education loan servicer;

(C) The identity, address, and other relevant information about the current holder, owner, or assignee of the student education loan; and

(D) The telephone number and mailing address of an individual employed by, or the office or department of, the student education loan servicer with the information and authority to answer questions and resolve disputes; and

(d) Promptly correct any errors and refund any fees assessed to the student education loan borrower resulting from the student education loan servicer's error.

(2) In addition, a student education loan borrower may request more detailed information from a student education loan servicer, and the student education loan servicer must provide the information within fifteen business days of receipt of a written request from the student education loan borrower. The request must include the name and account number, if any, of the student education loan borrower, a statement that the account is or may be in error, and provide sufficient detail to the student education loan servicer regarding information sought by the student education loan borrower. If requested by the student education loan borrower this statement must include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note; and

(b) A statement that identifies and itemizes all fees and charges assessed under the student education loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the student education loan borrower, and other activity on the student education loan including suspense account activity, if any. The period of the account history must cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the student education loan servicer has not serviced the student education loan for the entire two-year time period the student education loan servicer must provide the information going back to the date on which the student education loan servicer began servicing the student education loan, and identify the previous student education loan servicer, if known. If the student education loan servicer claims that any delinquent or outstanding sums are owed on the student education loan prior to the two-year period or the period during which the student education loan servicer has serviced the student education loan, the student education loan servicer must provide an account history beginning with the month that the student education loan servicer claims any outstanding sums are owed on the student education loan up to the date of the request for the information. The student education loan borrower may request annually one statement free of charge.

(3) When acquiring servicing rights from another student education loan servicer, a receiving student education loan servicer must:

(a) Notify the student education loan borrowers no more than sixty days and no less than forty-five days before the effective date of the transfer of the student education loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which the receiving student education loan servicer will begin to accept payments relating to the student education loan, if different;

(ii) The name, address, and toll-free telephone number for an individual employed by, or the office or department of, both the transferring and receiving student education loan servicers at which the student education loan borrower can obtain answers to inquiries;

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the student education loan;

(iv) Information about how to obtain a payment history from both the transferring or receiving student education loan servicer;

(v) A notification indicating whether an alternative repayment plan or loan consolidation application is pending; and

(vi) Information about how to submit a complaint to the United States department of education and the student education loan ombuds in the event of a servicing error; and

(b) Continue processing student education loan modification requests received by the receiving student education loan servicer or the transferring student education loan servicer during the transfer process.

(4) When transferring or selling the servicing of student education loans a transferring student education loan servicer must:

(a) Notify the student education loan borrowers no more than sixty days and no less than forty-five days before the effective date of the transfer of the student education loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which the transferring student education loan servicer will no longer accept payments relating to the student education loan, if different;

(ii) The name, address, and toll-free telephone number for an individual employed by, or the office or department of, both the transferring and receiving student education loan servicers at which the student education loan borrower can obtain answers to inquiries; and

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the student education loan; and

(b) Inform the receiving student education loan servicer if a student education loan modification request is pending.

(5) Licensees servicing student education loans shall provide, free of charge on the licensee's web site, information or links to information regarding repayment and loan forgiveness options that may be available to student education loan borrowers, as well as the availability of the student education loan ombuds to provide assistance. This information or these links shall be provided via written correspondence or email at least once per calendar year.

(6) In addition to keeping books and records in compliance with this chapter and section 1 of this act, licensees servicing student education loans shall collect, maintain, and report to the department specific information about the student education loans in the licensee's portfolio. Such information shall include, but not be limited by: Student education loan volume, default, refinance and modification information, student education loan type (subsidized, deferred, etc.) information, and collection practices.

(7) The director may adopt all rules necessary to implement this section. The director may, at his or her discretion, waive applicability of the provisions of this section when the director determines it necessary to facilitate commerce and protect consumers."

On page 16, beginning on line 17, after "means:" strike all material through "activities" on line 26, and insert "(a)(i) Receiving any scheduled periodic payments from a student education loan borrower or notification of such payments; and

(ii) Applying payments to the student education loan borrower's account pursuant to the terms of the student education loan or of the contract governing the servicing;

(b) During a period when no payment is required on a student education loan:

(i) Maintaining account records for the loan; and

(ii) Communicating with the student education loan borrower or the borrower's designated representative regarding the student education loan, as the student education loan's holder or on behalf of the student education loan's holder; or

(c) Interacting with a student education loan borrower, including activities to help prevent default on obligations arising from student education loans, to facilitate the activities described in (a) or (b) of this subsection."

On page 27, after line 27, insert the following:

"NEW SECTION. **Sec. 20.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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|  | EFFECT:   * Adds "student education loan" to each "servicer," "borrower," or "loan" used throughout section five of the bill and makes other clarifying language changes. * Changes the definition of "student education loan servicer" or "service a student education loan" to mirror the Consumer Financial Protection Bureau's definition. * Clarifies that the licensees mentioned in section 5 of the bill are only those that service student education loans. * Makes changes to the language regarding student education loan servicers providing contact information to student education loan borrowers to clarify that the contact may be an individual employed by the servicer, or be an office or department. * Changes "transferring student education loan servicer" to "receiving student education loan servicer" to correctly identify which type of servicer must meet the requirements outlined in the bill when acquiring servicing rights. * Adds a severability clause. |

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