

**2SHB 1440 - H AMD 121**

By Representative Stonier

ADOPTED 03/01/2017

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

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

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

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

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

1 treated as credited to the account, as well as any actions the student  
2 education loan borrower must take to make the student education loan  
3 current;

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

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

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

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

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

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

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

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

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

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

16 (b) A statement that identifies and itemizes all fees and charges  
17 assessed under the student education loan transaction and provides a  
18 full payment history identifying in a clear and conspicuous manner all  
19 of the debits, credits, application of and disbursement of all payments  
20 received from or for the benefit of the student education loan borrower,  
21 and other activity on the student education loan including suspense  
22 account activity, if any. The period of the account history must cover  
23 at a minimum the two-year period prior to the date of the receipt of  
24 the request for information. If the student education loan servicer has  
25 not serviced the student education loan for the entire two-year time  
26 period the student education loan servicer must provide the information  
27 going back to the date on which the student education loan servicer  
28 began servicing the student education loan, and identify the previous  
29 student education loan servicer, if known. If the student education loan  
30 servicer claims that any delinquent or outstanding sums are owed on the  
31 student education loan prior to the two-year period or the period during  
32 which the student education loan servicer has serviced the student  
33 education loan, the student education loan servicer must provide an  
34 account history beginning with the month that the student education loan

1 servicer claims any outstanding sums are owed on the student education  
2 loan up to the date of the request for the information. The student  
3 education loan borrower may request annually one statement free of  
4 charge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (i) Maintaining account records for the loan; and

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

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

22  
23 On page 27, after line 27, insert the following:

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

28  
29 Renumber the remaining sections consecutively and correct any  
30 internal references accordingly.

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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