



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**CIVIL CODE - CIV**

**DIVISION 3. OBLIGATIONS [1427 - 3273.69]** ( *Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*  )

**PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69]** ( *Part 4 enacted 1872.*  )

**TITLE 1.6C.10. Student Loans: Borrower Rights [1788.100 - 1788.106]** ( *Title 1.6C.10 added by Stats. 2020, Ch. 154, Sec. 2.*  )

**CHAPTER 3. Enforcement of the Student Borrower Bill of Rights [1788.103- 1788.103.]** ( *Chapter 3 added by Stats. 2020, Ch. 154, Sec. 2.*  )

**1788.103.** (a) A student loan servicer shall do both of the following:

(1) Comply with this title.

(2) Comply with all applicable federal laws relating to student loan servicing, as from time to time amended, and the regulations promulgated thereunder.

(b) Any consumer who suffers damage as a result of the failure of a student loan servicer to comply with paragraph (1) or (2) of subdivision (a) may, subject to the requirements of subdivisions (d) to (g), inclusive, bring an action on that consumer's behalf and on behalf of a similarly situated class of consumers against that student loan servicer to recover or obtain any of the following:

(1) Actual damages, but in no case, shall the total award of damages be less than five hundred dollars (\$500) per plaintiff, per violation.

(2) An order enjoining the methods, acts, or practices.

(3) Restitution of property.

(4) Punitive damages.

(5) Attorney's fees.

(6) Any other relief that the court deems proper.

(c) In addition to any other remedies provided by this subdivision or otherwise provided by law, whenever it is proven by a preponderance of the evidence that a student loan servicer has engaged in conduct that substantially interferes with a borrower's right to an alternative payment arrangement; loan forgiveness, cancellation, or discharge; or any other financial benefit as established under the terms of a borrower's promissory note or under the Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.), as from time to time amended, and the regulations promulgated thereunder, the court shall award treble actual damages to the plaintiff, but in no case shall the award of damages be less than one thousand five hundred dollars (\$1,500) per plaintiff, per violation.

(d) (1) At least 45 days before bringing an action for damages or injunctive relief pursuant to this chapter, a consumer shall do all of the following:

(A) Provide written notice to the person alleged to have violated subdivision (a) regarding the nature of the alleged violations.

(B) Demand that the person correct and remedy the method, acts, or practices to which the notice required by subparagraph (A) refers.

(2) The notice required by this subdivision shall be sent by certified or registered mail, return receipt requested, to the person's address on file with the Department of Financial Protection and Innovation or to the person's principal place of business within California.

(e) An action for damages or injunctive relief brought by a consumer only on that consumer's behalf may not be maintained under subdivision (b) upon a showing by a person that an appropriate correction and remedy is given, or agreed to be given within a reasonable time, to the consumer within 30 days after receipt of the notice.

(f) An action for damages brought by a consumer on both the consumer's behalf and on behalf of a similarly situated class of consumers may not be maintained under subdivision (b) upon a showing by a person alleged to have employed or committed methods, acts, or practices declared unlawful that all of the following are true:

(1) All consumers similarly situated have been identified, or a reasonable effort to identify those other consumers has been made.

(2) All consumers so identified have been notified that, upon their request, the person shall make the appropriate correction and remedy.

(3) The correction and remedy requested by the consumers has been, or, in a reasonable time, will be, given.

(4) The person has ceased from engaging, or if immediate cessation is impossible or unreasonably expensive under the circumstances, the person will, within a reasonable time, cease to engage, in the methods, act, or practices.

(g) Attempts to comply with a demand described in paragraph (2) of subdivision (d) by a person receiving that demand shall be construed to be an offer to compromise and shall be inadmissible as evidence pursuant to Section 1152 of the Evidence Code. Furthermore, these attempts to comply with a demand shall not be considered an admission of engaging in an act or practice declared unlawful by subdivision (a). Evidence of compliance or attempts to comply with this section may be introduced by a defendant for the purpose of establishing good faith or to show compliance with subdivision (a).

(h) An award of damages shall not be given in an action based on a method, act, or practice in violation of subdivision (a) if the person alleged to have employed or committed that method, act, or practice does both of the following:

(1) Proves by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the use of reasonable procedures adopted to avoid that error.

(2) Makes an appropriate correction, repair, replacement, or other remedy according to the provisions of subdivisions (d) and (e) as required by law.

(i) The commissioner shall administer and enforce the provisions of this title and may promulgate rules and regulations and issue orders consistent with that authority.

(1) The commissioner shall have the authority to carry over any regulations issued pursuant to the Student Loan Servicing Act in order to implement equivalent provisions of this act.

(2) Any rules issued pursuant to the Student Loan Servicing Act in effect at the time of enactment of this act shall remain in effect until the commissioner repeals or reissues those regulations.

*(Amended by Stats. 2022, Ch. 452, Sec. 21. (SB 1498) Effective January 1, 2023.)*