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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 5. Shining a Spotlight on Student Loan Industry Practices [1788.105 - 1788.106] (*Chapter 5 added by Stats. 2020, Ch. 154, Sec. 2.*)

1788.105. (a) The commissioner may monitor for risks to consumers in the provision of student loan servicing in this state, including developments in the market for those services, by compiling and analyzing data and other information based on any of the following considerations:

- (1) The likely risks and costs to consumers associated with using or repaying a student loan or with the servicing of a student loan.
- (2) The understanding by consumers of the risks of a student loan or the servicing of a student loan.
- (3) The legal protections applicable to the offering or provision of a student loan or the servicing of a student loan, including the extent to which the law is likely to adequately protect consumers.
- (4) The rates of growth in the offering or provision of a student loan or the servicing of that loan.
- (5) The extent, if any, to which the risks of a student loan or the servicing of a student loan disproportionately affect traditionally underserved consumers.
- (6) The type, number, and other pertinent characteristics of student loan servicers in this state.

(b) In conducting any monitoring or assessment authorized by this section, the commissioner may gather information regarding the organization, business conduct, markets, and activities of student loan servicers in this state, except if that student loan servicer is a national bank, as defined in Section 25b of Title 12 of the United States Code, and only to the extent that the requirements of this paragraph are preempted with respect to national banks pursuant to Section 25b and following of Title 12 of the United States Code. The commissioner may enter into contracts to perform the duties required in this section, as necessary.

(c) In order to gather information described in subdivision (b), the commissioner may do both of the following:

- (1) Gather and compile information from a variety of sources, including consumer complaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews with student loan servicers and service providers, and review of available databases.
- (2) Require persons engaged in student loan servicing and licensed or subject to the licensing requirements of the Student Loan Servicing Act (Division 12.5 (commencing with Section 28100) of the Financial Code) to file, under oath or otherwise, in the form and within a reasonable period of time as the commissioner may prescribe, annual or special reports, or answers in writing to specific questions, as necessary for the commissioner to fulfill the monitoring, assessment, and reporting responsibilities required in this title.

(d) (1) In addition to any other market monitoring activities deemed necessary by the commissioner, pursuant to subdivision (a), the department may gather and compile information from student loan servicers to assemble data that assesses the total size of the student loan market in this state, the servicing of loans owed by borrowers at risk of default, the servicing of private student loans owed by borrowers experiencing financial distress, and the servicing of federal student loans for borrowers who seek to repay their loans under an Income Driven Repayment Plan as described in Section 1070 et seq. of Title 20 of the United States Code.

(2) The commissioner may, on a quarterly basis, develop and publicize metrics based on data collected pursuant to this subdivision, and those metrics may identify each student loan servicer and publish relevant metrics related to performance of student loan servicing by each person. In executing the function described in this subdivision, the commissioner may meet and confer with the Student Loan Ombudsman established pursuant to Chapter 4.

(e) Notwithstanding subdivision (l) of Section 1788.100, for purposes of this chapter, "student loan servicer" includes a state or nonprofit private institution or organization having an agreement with the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)) in connection with its responsibilities as a guaranty agency engaged in default aversion.

(f) This chapter shall become operative on July 1, 2021.

(g) The operation of this chapter is contingent upon the enactment of an appropriation in the annual Budget Act for its purposes.

(Amended by Stats. 2021, Ch. 124, Sec. 6. (AB 938) Effective January 1, 2022.)

1788.106. Any waiver of a provision of this title is contrary to public policy and is void and unenforceable.

(Added by Stats. 2024, Ch. 853, Sec. 14. (AB 3281) Effective January 1, 2025.)