

HOUSE BILL NO. 6267

June 22, 2022, Introduced by Reps. Stone, Anthony, Breen, Neeley, Kuppa, Scott, Aiyash, Ellison, Manoogian, Glanville, Cynthia Johnson, Sabo, Hood, Steckloff, Cavanagh, Weiss, Sowerby and Hope and referred to the Committee on Education.

A bill to prohibit activities in the student loan industry; to impose duties on persons in the student loan industry; to provide remedies; to provide for a student loan ombudsman and prescribe the powers and duties of the ombudsman; to provide the powers and duties of state governmental officers and entities; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "student loan borrowers
2 bill of rights act".

1 Sec. 3. As used in this act:

2 (a) "Armed Forces of the United States" means the Army, Air
3 Force, Navy, Marine Corps, Coast Guard, or other military force
4 designated by Congress as a part of the Armed Forces of the United
5 States.

6 (b) "Associated cost" means any cost associated with attending
7 an institution of higher education, including, but not limited to,
8 fees, the cost of books, supplies, room and board, and
9 transportation, and other personal expenses.

10 (c) "Borrower" means either of the following:

11 (i) An individual who has received or agreed to pay a student
12 loan.

13 (ii) An individual who shares responsibility for repaying a
14 student loan with an individual described in subparagraph (i).

15 (d) "Borrower with a disability" means a borrower who a
16 student loan servicer knows, or reasonably should know, is an
17 individual with a disability, as that term is defined in section 3
18 of the Americans with disabilities act of 1990, 42 USC 12102, and
19 28 CFR 36.105.

20 (e) "Borrower working in public service" means a borrower who
21 a student loan servicer knows, or reasonably should know, is
22 employed in a public service job, as that term is defined in 20 USC
23 1087e(m).

24 (f) "Department" means the department of insurance and
25 financial services.

26 (g) "Designated transaction" means any of the following:

27 (i) A loan secured by real property or a dwelling, including,
28 but not limited to, a reverse mortgage transaction or a residential
29 mortgage transaction.

1 (ii) An extension of credit under an open-end consumer credit
2 plan.

3 (iii) An extension of credit made by an institution of higher
4 education to a borrower if any of the following circumstances
5 apply:

6 (A) The term of the extension of credit is not longer than the
7 educational program of the borrower.

8 (B) The remaining, unpaid principal balance of the extension
9 of credit is less than \$1,500.00 when the borrower graduates or
10 otherwise completes the educational program.

11 (C) The borrower fails to graduate or successfully complete
12 the educational program and the borrower has a balance due at the
13 time of disenrollment.

14 (h) "Director" means the director of the department.

15 (i) "Military borrower" means either of the following:

16 (i) A borrower who is any of the following:

17 (A) A member of the Armed Forces of the United States, a
18 reserve branch of the Armed Forces of the United States, or the
19 National Guard.

20 (B) An individual who self-identifies as a service member when
21 interacting with a student loan servicer.

22 (C) A veteran of the Armed Forces of the United States.

23 (ii) The authorized representative of an individual described
24 in subparagraph (i).

25 (j) "Negative consequence" includes, but is not limited to,
26 negative credit reporting, lost eligibility for a borrower benefit,
27 a late fee, interest capitalization, or other financial injury.

28 (k) "Older borrower" means a borrower who a student loan
29 servicer knows, or reasonably should know, is an individual who is

1 65 years of age or older.

2 (l) "Ombudsman" means the student loan ombudsman created under
3 section 43.

4 (m) "Person" means an individual, corporation, partnership,
5 limited liability company, association, trust, unincorporated
6 organization, government or political subdivision of a government,
7 or any other entity.

8 (n) "Services" or "servicing" in relation to a student loan
9 means either of the following:

10 (i) At the time a borrower makes a scheduled periodic payment
11 on the student loan, doing both of the following:

12 (A) Receiving the payment from the borrower, or otherwise
13 being notified that the payment was made by the borrower.

14 (B) Applying the payment to the account of the borrower in
15 accordance with the terms of the student loan or the contract
16 governing the servicing of the student loan.

17 (ii) At any time when a borrower is not making a scheduled
18 periodic payment on a student loan, doing both of the following:

19 (A) Maintaining the records of the student loan account.

20 (B) Communicating about the student loan with the borrower on
21 behalf of the owner of the promissory note of the student loan.

22 (o) "Student loan" means a loan made solely for use to finance
23 a postsecondary education and any associated costs. Student loan
24 includes a loan made to refinance a student loan. Student loan does
25 not include a designated transaction.

26 (p) "Student loan account" means any student loan owed by a
27 borrower grouped together by the student loan servicer for the
28 purpose of billing.

29 (q) "Student loan servicer" means a person that services

1 student loans or that is otherwise engaged in the business of
2 servicing student loans. Student loan servicer does not include any
3 of the following:

4 (i) A debt collector whose student loan debt collection
5 business and business operations involve collecting, or attempting
6 to collect, a federal student loan for which no payment has been
7 received for 270 days or more or a private student loan that the
8 borrower has defaulted on in accordance with the terms of the
9 student loan. A debt collector described in this subparagraph,
10 while servicing a student loan that is not in default, is
11 considered a student loan servicer.

12 (ii) Except as provided in sections 43 to 47, a state or a
13 nonprofit private institution or organization that has an agreement
14 with the United States Secretary of Education under 20 USC 1078(b),
15 in connection with its responsibilities as a guaranty agency
16 engaged in default aversion.

17 (iii) A federally chartered credit union.

18 Sec. 5. This act applies to any activity relating to the
19 servicing of a student loan that originates from this state and is
20 directed to persons outside of this state, that originates from
21 outside of this state and is directed to persons inside this state,
22 or that originates inside this state and is directed to persons
23 inside this state.

24 Sec. 7. (1) A person shall not engage in an abusive act or
25 practice when servicing a student loan.

26 (2) As used in this section, "abusive act or practice"
27 includes, but is not limited to, any of the following actions:

28 (a) Materially interfering with the ability of a borrower to
29 understand a term or condition of a student loan.

1 (b) Taking unreasonable advantage of the borrower's lack of
2 understanding of the material risks, costs, or conditions of a
3 student loan.

4 (c) Taking unreasonable advantage of the inability of a
5 borrower to protect the borrower's interest when selecting or using
6 the student loan or a feature, term, or condition of the student
7 loan.

8 (d) Taking unreasonable advantage of the reasonable belief of
9 the borrower that the person servicing the student loan is acting
10 in the best interest of the borrower.

11 Sec. 9. (1) A student loan servicer shall not do any of the
12 following:

13 (a) Directly or indirectly employ a scheme, device, or
14 artifice to defraud or mislead a borrower.

15 (b) Engage in an unfair or deceptive practice toward a
16 borrower.

17 (c) Misrepresent or omit a material fact relating to a student
18 loan.

19 (d) Misapply a payment made by a borrower to the outstanding
20 balance of a student loan.

21 (e) If the student loan servicer is required to or voluntarily
22 reports to a consumer reporting agency that compiles and maintains
23 files on consumers on a nationwide basis, as that term is defined
24 in 15 USC 1681a, fail to accurately report the payment performance
25 of the borrower to at least 1 of those agencies on its acceptance
26 as a data furnisher.

27 (f) Refuse to communicate with an authorized representative of
28 the borrower who provided written communication signed by the
29 borrower authorizing the communication, unless the authorization

1 does not comply with a reasonable procedure adopted by the student
2 loan servicer to verify that the representative is in fact
3 authorized to act on behalf of the borrower and to protect the
4 borrower from fraud or abusive practices.

5 (g) Negligently or intentionally make a false statement or
6 knowingly and willfully make an omission of material information in
7 connection with information or reports filed with the department or
8 any other governmental agency.

9 (2) As used in this section, "material fact" includes all of
10 the following:

11 (a) The amount, nature, or terms of a fee or payment due or
12 claimed to be due on a student loan.

13 (b) A term or condition of the student loan agreement.

14 (c) An obligation of the borrower under the student loan.

15 (d) If the borrower is a military borrower, the availability
16 of a program or protection specific to military borrowers or
17 applicable to military borrowers.

18 (e) If the borrower is a borrower working in public service,
19 the availability of a program or protection specific to borrowers
20 working in public service or applicable to those borrowers.

21 (f) If the borrower is an older borrower, both of the
22 following:

23 (i) The availability of a program or protection specific to
24 older borrowers or older cosigners, or applicable to those
25 borrowers or cosigners.

26 (ii) The obligations of the older borrower or older cosigner
27 under the student loan.

28 (g) If the borrower is a borrower with a disability, the
29 availability of a program or protection specific to borrowers with

1 disabilities or applicable to borrowers with disabilities.

2 Sec. 11. (1) Except as otherwise provided by federal law or
3 regulation, a student loan servicer shall do all of the following:

4 (a) Create policies for the processing of student loan
5 payments.

6 (b) Disclose and make readily available to each borrower the
7 policies described in subdivision (a).

8 (c) Post, process, and credit student loan payments in a
9 timely manner and in accordance with the policies of the student
10 loan servicer and this section.

11 (2) If a student loan payment is received at or before 11:59
12 p.m. on its due date and the payment was made in the amount,
13 manner, and location required by the person servicing the student
14 loan, the payment must be credited as effective on the date that
15 the payment was received from the borrower regardless of the date
16 on which the payment is processed by the person servicing the
17 student loan.

18 (3) Except as otherwise provided in subsections (4) and (5),
19 the online account of a borrower must post and otherwise reflect
20 all student loan payments made by the borrower not later than 3
21 days after the date of payment.

22 (4) If a student loan payment was made by check and the check
23 does not contain enough information to identify the student loan
24 account or loan for which the payment should be credited, the
25 student loan servicer shall determine, not later than 10 business
26 days after receiving the check, the account and loan to which the
27 payment should be credited. When the student loan servicer
28 determines to which account and loan the payment should be
29 credited, the student loan servicer shall credit the payment as

1 effective on the date the payment was received by the student loan
2 servicer and update the online account of the borrower not later
3 than 1 business day after the determination.

4 (5) If, while servicing a student loan, a person makes a
5 material change in the mailing address, office, or procedures for
6 the handling of student loan payments, a student loan payment is
7 made during the 60 days after the date that the change took effect,
8 and the change causes a material delay in the crediting of the
9 student loan payment, the person servicing the student loan shall
10 do both of the following:

11 (a) Credit the payment as effective on the date that the
12 payment was received by the student loan servicer and update the
13 online account of the borrower not later than 1 business day after
14 receipt.

15 (b) Not impose a negative consequence on the borrower relating
16 to the material change.

17 Sec. 13. (1) Except as otherwise provided by federal law or
18 regulation or as required by a student loan agreement, a student
19 loan servicer shall do both of the following:

20 (a) Ask each borrower how an overpayment should be applied to
21 a student loan of the borrower.

22 (b) Apply an overpayment as instructed by the borrower, or if
23 the borrower has not provided instructions, in the manner
24 prescribed under subsection (2) or (3), as applicable.

25 (2) Subject to subsection (1), if the borrower submits an
26 overpayment and the borrower has 1 student loan with the student
27 loan servicer, the student loan servicer shall apply the
28 overpayment in a manner that reduces the total cost of the student
29 loan, including, but not limited to, the principal balance,

1 interest, and fees.

2 (3) Subject to subsection (1), if the borrower submits an
3 overpayment and the borrower has 2 or more student loans with the
4 student loan servicer, the student loan servicer shall apply the
5 overpayment to the student loan with the highest interest rate on
6 the student loan account of the borrower.

7 (4) A borrower may modify the manner in which the student loan
8 servicer is required to apply an overpayment by notifying the
9 student loan servicer of the requested change. On receipt of the
10 notification, the student loan servicer shall apply the overpayment
11 in accordance with the requested modification.

12 (5) As used in this section, "overpayment" means a payment to
13 the student loan account in excess of the monthly amount due from
14 the borrower on the student loan, including a prepayment.

15 Sec. 15. (1) Except as otherwise provided by federal law or
16 regulation or as required by a student loan agreement, a student
17 loan servicer shall do both of the following:

18 (a) Ask each borrower how a partial payment should be applied
19 to a student loan of the borrower.

20 (b) Apply a partial payment as instructed by the borrower, or
21 if the borrower has not provided instructions, in the manner
22 prescribed under subsection (2) or (3), as applicable.

23 (2) Subject to subsection (1), if the borrower submits a
24 partial payment and the borrower has 1 student loan with the
25 student loan servicer or multiple student loans with the student
26 loan servicer that are at different stages of delinquency, the
27 student loan servicer shall apply the partial payment in a manner
28 that minimizes late fees and negative credit reporting.

29 (3) Subject to subsection (1), if the borrower submits a

1 partial payment and the borrower has 2 or more student loans with
2 the student loan servicer that are at equal stages of delinquency,
3 the student loan servicer shall apply the partial payment in a
4 manner that satisfies as many student loans as possible on the
5 student loan account of the borrower.

6 (4) A borrower may modify the manner in which the student loan
7 servicer is required to apply a partial payment by notifying the
8 student loan servicer of the requested change. On receipt of the
9 notification, the student loan servicer shall apply a partial
10 payment in accordance with the requested modification.

11 (5) As used in this section, "partial payment" means a payment
12 on the student loan account in an amount less than the current
13 amount due from the borrower on the student loan account, including
14 an underpayment.

15 Sec. 17. Except as otherwise provided by federal law or
16 regulation, a student loan servicer shall not impose on a borrower
17 a minimum fee for a late student loan payment, and if a student
18 loan servicer imposes a fee on a borrower for a late student loan
19 payment, the fee must be in an amount that is reasonable and
20 proportional to the total cost incurred by the student loan
21 servicer as a result of the late payment and not more than 6% of
22 the amount past due.

23 Sec. 19. Except as otherwise provided by federal law or
24 regulation, a student loan servicer shall do both of the following:

25 (a) Create and maintain policies and procedures for the
26 servicing of student loans.

27 (b) Diligently oversee that persons who service student loans
28 on behalf of the student loan servicer comply with the policies and
29 procedures of the student loan servicer.

1 Sec. 21. (1) Except as otherwise provided by federal law or
2 regulation, a student loan servicer shall do all of the following:

3 (a) Timely process student loan paperwork.

4 (b) Ensure that customer service personnel of the student loan
5 servicer have received both of the following:

6 (i) Appropriate training about the handling of student loan
7 paperwork.

8 (ii) Access to necessary information about forms and
9 applications that are in progress, have been approved, or have been
10 denied by the student loan servicer.

11 (2) As used in this section, "applications" includes, but is
12 not limited to, all applications for income-driven repayment plans
13 and other forms required to access benefits and protections for
14 federal student loans.

15 Sec. 23. Except as otherwise provided by federal law or
16 regulation or as required by a student loan agreement, a student
17 loan servicer shall maintain all records relating to a student loan
18 account for the period during which a person performs servicing on
19 a student loan within the student loan account and for not less
20 than 3 years after the student loan has been paid by the borrower,
21 the student loan is assigned to collections, or the servicing
22 rights of the student loan have been transferred to another person.

23 Sec. 25. (1) Except as otherwise provided by federal law or
24 regulation, a student loan servicer shall do all of the following:

25 (a) Treat a qualified request as if it were a qualified
26 written request.

27 (b) Create and maintain policies and procedures that permit a
28 borrower who is dissatisfied with the outcome of an initial
29 qualified request to escalate the concern to a supervisor.

1 (c) Protect a borrower from any negative consequence that is
2 directly related to a problem identified in a qualified request or
3 qualified written request until the request has been resolved by
4 the student loan servicer, unless the problem relates to a payment
5 on the student loan and the negative consequence is furnishing
6 information to a consumer reporting agency, in which case, the
7 student loan servicer shall refrain from furnishing the information
8 to the consumer reporting agency until 60 days after the student
9 loan servicer receives the student loan payment.

10 (d) Acknowledge receipt of a qualified written request not
11 later than 10 business days after the date that the request was
12 received by the student loan servicer.

13 (e) Provide information to the borrower relating to a
14 qualified request or qualified written request not later than 30
15 days after the date that the request was received by the student
16 loan servicer, unless the student loan servicer notifies the
17 borrower that the provision of information will be delayed and the
18 reason for the delay, in which case, the student loan servicer must
19 respond to the request not later than 15 days after the original 30
20 days.

21 (2) As used in this section:

22 (a) "Correspondence" means a communication that does both of
23 the following:

24 (i) Enables the student loan servicer to identify the name and
25 student loan account of the borrower.

26 (ii) Includes a summary of at least 1 of the following:

27 (A) That the student loan account of the borrower contains an
28 error and the reason for that belief by the borrower.

29 (B) That the borrower seeks information relating to the

1 student loan account, including, but not limited to, a complete
2 payment history of the student loan or the student loan account, a
3 copy of the student loan promissory note of the borrower, or the
4 contact information for the creditor to whom the student loan is
5 owed by the borrower.

6 (b) "Qualified request" means an inbound telephone call made
7 by a borrower to a student loan servicer, the subject of which
8 relates to either of the following, and cannot be resolved in a
9 single telephone call:

10 (i) The borrower requesting specific information from the
11 student loan servicer.

12 (ii) The borrower reporting what the borrower believes to be an
13 error relating to the student loan account of the borrower.

14 (c) "Qualified written request" means a written correspondence
15 that is made by a borrower and transmitted by mail, facsimile, or
16 electronically to the student loan servicer.

17 Sec. 27. Except as otherwise provided by federal law or
18 regulation, a student loan servicer shall protect a borrower from
19 any negative consequences stemming from either of the following
20 circumstances:

21 (a) The sale, assignment, or transfer of the servicing of a
22 student loan.

23 (b) A system conversion by the student loan servicer.

24 Sec. 29. (1) Except as otherwise provided by federal law or
25 regulation, if the sale, assignment, or transfer of the servicing
26 of a student loan will result in a borrower being required to send
27 student loan payments to or otherwise communicate with a new
28 student loan servicer, the original student loan servicer shall do
29 all of the following:

1 (a) Not less than 15 days before the due date of the next
2 student loan payment, send a written notice to the borrower
3 containing all of the following information:

4 (i) The identity of the new student loan servicer.

5 (ii) The name, address, telephone number, and internet website
6 of the new student loan servicer.

7 (iii) The effective date of the sale, assignment, or transfer.

8 (iv) The date on which the original student loan servicer will
9 stop accepting payments on the student loan.

10 (v) The date on which the new student loan servicer will begin
11 accepting payments on the student loan.

12 (b) Not later than 45 days after the sale, assignment, or
13 transfer, forward to the new student loan servicer all necessary
14 information relating to the borrower, the student loan account of
15 the borrower, and any student loan of the borrower.

16 (c) Protect the borrower from any negative consequence
17 relating to a payment made by the borrower to the original student
18 loan servicer instead of the new student loan servicer, if the
19 payment was consistent with the policy of the original student loan
20 servicer.

21 (2) As used in this section, "necessary information" includes,
22 but is not limited to, all of the following:

23 (a) A schedule of all transactions credited or debited to the
24 student loan account.

25 (b) A copy of the promissory note for the student loan.

26 (c) Any notes created by the personnel of the student loan
27 servicer that reflect communications with the borrower about the
28 student loan account.

29 (d) A report of the data fields relating to the student loan

1 account created by the electronic system of the student loan
2 servicer in connection with its servicing practices.

3 (e) Physical copies or electronic records of any information
4 or documents provided by the borrower to the student loan servicer.

5 (f) Usable data fields with information necessary to assess
6 qualification for student loan forgiveness, including, but not
7 limited to, public service student loan forgiveness.

8 (g) Any information necessary to compile the student loan
9 payment history.

10 Sec. 31. (1) A student loan servicer shall provide specialized
11 training in accordance with this section to customer service
12 personnel who interact with military borrowers, borrowers working
13 in public service, older borrowers, and borrowers with a
14 disability, respectively.

15 (2) The specialized training relating to military borrowers
16 must ensure that customer service personnel can advise those
17 borrowers about student loan repayment benefits and protections
18 specific to military borrowers.

19 (3) The specialized training relating to borrowers working in
20 public service must ensure that customer service personnel can
21 advise those borrowers about student loan repayment benefits and
22 protections specific to public service.

23 (4) The specialized training relating to older borrowers must
24 ensure that customer service personnel can do all of the following:

25 (a) Advise those borrowers about risks specifically applicable
26 to older borrowers.

27 (b) Ensure that those borrowers are informed about student
28 loan repayment benefits and protections specific to older
29 borrowers, including, but not limited to, disability discharge

1 programs for private and federal loans.

2 (c) Ensure that those borrowers are informed about cosigner
3 release provisions in private student loan contracts, as
4 applicable.

5 (5) The specialized training relating to borrowers with a
6 disability must ensure that customer service personnel can advise
7 those borrowers about student loan repayment benefits and
8 protections specific to borrowers with a disability, including, but
9 not limited to, disability discharge programs for private and
10 federal loans.

11 Sec. 33. A student loan servicer shall respond to a
12 communication from the ombudsman not later than 10 days after
13 receiving the communication or within a shorter period of days, if
14 reasonably requested by the ombudsman.

15 Sec. 35. (1) Except as otherwise provided in section 39, a
16 borrower who is injured by a student loan servicer, or any other
17 person who services student loans on behalf of the student loan
18 servicer, failing to comply with this act or any applicable
19 provision of federal law or regulation relating to the servicing of
20 a student loan, may bring an action on behalf of the borrower, or
21 on behalf of a similarly situated class of borrowers, against the
22 student loan servicer or other person servicing the student loan,
23 as applicable.

24 (2) A student loan servicer has joint and several liability
25 for the conduct of persons who service student loans on behalf of
26 the student loan servicer.

27 Sec. 37. (1) Not less than 45 days before bringing an action
28 described in section 35, the borrower shall provide written notice
29 to the person alleged to have committed the violation.

1 (2) The notice described in subsection (1) must meet all of
2 the following requirements:

3 (a) Describe the nature of the alleged violation.

4 (b) Demand that the person remedy the alleged violation.

5 (c) Be sent by certified or registered mail, return receipt
6 requested, to the principal place of business of the person.

7 Sec. 39. (1) A single borrower may not bring an action
8 described in section 35 for damages or injunctive relief under
9 either of the following circumstances:

10 (a) The student loan servicer, not later than 30 days after
11 receiving the notice described in section 37, corrected or remedied
12 the alleged violation.

13 (b) The student loan servicer, not later than 30 days after
14 receiving the notice described in section 37, submits to an
15 agreement to correct or remedy the alleged violation within a
16 reasonable amount of time.

17 (2) A borrower may not maintain an action described in section
18 35 for damages on behalf of a class of borrowers if all of the
19 following conditions are satisfied:

20 (a) Each consumer in the class has been identified by the
21 student loan servicer, or a reasonable effort to identify those
22 borrowers has been made by the student loan servicer.

23 (b) The borrowers in the class have been notified by the
24 student loan servicer that, on their request, the student loan
25 servicer will appropriately correct or remedy the violation.

26 (c) The correction or remedy described in subdivision (b) has
27 been, or, in a reasonable time, will be given by the student loan
28 servicer to the borrowers in the class.

29 (d) The student loan servicer has ceased engaging in, or if

1 immediate cessation is impossible or unreasonably expensive under
2 the circumstances, the student loan servicer will, within a
3 reasonable amount of time, cease to engage in, the method, act, or
4 practice giving rise to the violation.

5 (3) A court shall not award damages in an action described in
6 section 35 relating to a method, act, or practice in violation of
7 this act if the person alleged to have employed or committed the
8 method, act, or practice does both of the following:

9 (a) Proves by a preponderance of the evidence that the
10 violation was not intentional and resulted from a bona fide error
11 despite the use of reasonable procedures adopted to avoid that
12 error.

13 (b) Makes an appropriate correction or remedy in accordance
14 with the procedures established in this section.

15 (4) An attempt to comply with a demand contained in the notice
16 described in section 37 is inadmissible as evidence and is not an
17 admission of engaging in an unlawful activity. The attempt may be
18 used by the defendant to demonstrate a good-faith effort to comply
19 with subsection (1) or (2), as applicable.

20 Sec. 41. (1) Except as otherwise provided in section 39, in an
21 action described in section 35, a court may award any relief it
22 considers proper, including, but not limited to:

23 (a) Actual damages in an amount not less than \$500.00 per
24 plaintiff, per violation.

25 (b) An order enjoining the defendant from a method, act, or
26 practice.

27 (c) Restitution of property.

28 (d) Punitive damages.

29 (e) Attorney fees.

1 (2) In addition to the relief described in subsection (1), if
2 it is proven by a preponderance of the evidence that a student loan
3 servicer has engaged in conduct that substantially interferes with
4 the right of a borrower to an alternative payment arrangement,
5 student loan forgiveness, discharge, or cancellation, or any other
6 financial benefit established under the terms of the promissory
7 note of the borrower or under the higher education act of 1965,
8 Public Law 89-329, the court must award treble actual damages in an
9 amount not less than \$1,500.00 per plaintiff, per violation.

10 Sec. 43 (1) Not later than 180 days after the effective date
11 of this act, the director shall designate an employee of the
12 department as the student loan ombudsman to provide timely
13 assistance to consumers.

14 (2) The ombudsman shall do all of the following:

15 (a) Receive and review complaints of consumers concerning
16 student loan servicers.

17 (b) In collaboration with institutions of higher education,
18 student loan servicers, the department, and any other participants
19 in student loan lending, attempt to resolve the complaints
20 described in subdivision (a).

21 (c) Compile and analyze data on the complaints described in
22 subdivision (a).

23 (d) Provide information to the public, agencies, legislators,
24 and others regarding the problems and concerns of consumers and
25 make recommendations for resolving those problems and concerns.

26 (e) Analyze and monitor the development and implementation of
27 federal and state laws, regulations, and policies relating to
28 consumers and recommend changes to the laws, regulations, or
29 policies that the ombudsman considers necessary.

1 (f) Disseminate information concerning the availability of the
2 department to accept complaints from consumers and potential
3 consumers.

4 (g) Not later than 18 months after the effective date of this
5 act, and not less frequently than once per year after the first
6 report, submit a report to the senate and house standing committees
7 with oversight over matters relating to banking and higher
8 education.

9 (3) A report required by subsection (2) must include
10 information relating to all of the following:

11 (a) The implementation of this section.

12 (b) The types of complaints received by the ombudsman relating
13 to student loan borrowing, student loan repayment and servicing,
14 and how the complaints are resolved.

15 (c) Other relevant data and analysis relating to outstanding
16 student loan problems faced by consumers.

17 (4) As used in this section, "student loan servicer" includes
18 a state or a nonprofit private institution or organization that has
19 an agreement with the United States Secretary of Education under 20
20 USC 1078(b), in connection with its responsibilities as a guaranty
21 agency engaged in default aversion.

22 Sec. 45. (1) The director may monitor risks concerning student
23 loan borrowing by compiling and analyzing data and other
24 information relating to any of the following:

25 (a) The likely risks and costs to consumers associated with
26 using or repaying student loans or with the servicing of student
27 loans.

28 (b) The understanding of consumers concerning the risks
29 associated with student loans or the servicing of student loans.

1 (c) The legal protections applicable to the offering or
2 provision of student loans or the servicing of student loans,
3 including, but not limited to, the extent to which the law
4 adequately protects consumers.

5 (d) The rates of growth in the offering or provision of
6 student loans or the servicing of student loans.

7 (e) The extent, if any, to which the risks associated with
8 student loans or the servicing of student loans disproportionately
9 affect traditionally underserved consumers.

10 (f) The type, number, and other pertinent characteristics of
11 student loan servicers.

12 (2) To conduct the monitoring described in subsection (1), and
13 except as otherwise provided in subsection (5), the director may
14 gather information relating to the organization, business conduct,
15 markets, and activities of student loan servicers.

16 (3) The director may gather the information described in
17 subsection (2) by any of the following methods:

18 (a) Analyzing consumer complaints, databases relating to
19 student loans, and other relevant sources relating to the student
20 loan industry.

21 (b) Conducting voluntary surveys with consumers, student loan
22 servicers, and other actors in the student loan industry.

23 (c) Requiring student loan servicers and other actors in the
24 student loan industry to file annual reports or special reports
25 that answer questions designated by the director.

26 (4) The report described in subsection (3) must be filed under
27 oath and in the form and manner prescribed by the director.

28 (5) The director may not gather the information described in
29 subsection (2) if both of the following conditions are satisfied:

1 (a) The student loan servicer is a national bank as defined in
2 12 USC 25b.

3 (b) The gathering of the information is preempted by 12 USC
4 25b.

5 (6) As used in this section, "student loan servicer" includes
6 a state or a nonprofit private institution or organization that has
7 an agreement with the United States Secretary of Education under 20
8 USC 1078(b), in connection with its responsibilities as a guaranty
9 agency engaged in default aversion.

10 Sec. 47. (1) In addition to the monitoring described in
11 section 45, the department may gather and compile information from
12 student loan servicers for the purpose of assessing any of the
13 following:

14 (a) The number of consumers and potential consumers.

15 (b) The number of consumers who have defaulted on a student
16 loan.

17 (c) The number of consumers who are at risk of defaulting on a
18 student loan.

19 (d) The number of consumers who have a private student loan
20 and who are experiencing financial distress.

21 (e) The number of consumers who seek to repay a student loan
22 under an income-based repayment plan as described in 20 USC 1098e.

23 (2) The director may develop and publish quarterly metrics
24 based on the information described in subsection (1). The director
25 may meet and confer with the ombudsman to develop and publish the
26 metrics.

27 (3) As used in this section, "student loan servicer" includes
28 a state or a nonprofit private institution or organization that has
29 an agreement with the United States Secretary of Education under 20

1 USC 1078(b), in connection with its responsibilities as a guaranty
2 agency engaged in default aversion.

3 Sec. 49. The department shall promulgate rules under the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328, to implement this act.