

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 279**

1 On page 2 of the printed bill, line 14, delete the period and insert “in-
2 cluding, but not limited to, performing any of the following actions during
3 periods in which a payment on a student loan is not due:

4 “(A) Maintaining account records for the student loan;

5 “(B) Communicating with the borrower about the student loan on behalf
6 of the lender; or

7 “(C) Interacting with a borrower to prevent a default on a student loan
8 or to enable the activities described in paragraphs (a) and (b) of this sub-
9 section.”.

10 Delete line 21.

11 In line 22, delete “(c)” and insert “(b)”.

12 Delete lines 26 through 30 and insert:

13 “(c) An attorney who is licensed or otherwise authorized to practice law
14 in this state if the attorney services a student loan only incidentally in the
15 course of practicing law.

16 “(d) A public body, as defined in ORS 174.109.

17 “(e) A public university listed in ORS 352.002.

18 “(f) A community college, as defined in ORS 341.005.

19 “(g) The Oregon Health and Science University.

20 “(h) A nonprofit, private, post-secondary institution that the Higher Ed-
21 ucation Coordinating Commission has authorized to confer academic degrees

1 under ORS 348.594 to 348.615.

2 “(i) A state agency or a private nonprofit institution or organization that
3 has an agreement with the United States Secretary of Education under sec-
4 tion 428(b) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)), solely to
5 the extent of the agency’s, institution’s or organization’s actions as a
6 guarantor that engages in averting defaults. The exemption set forth in this
7 paragraph does not extend to the agency’s, institution’s or organization’s
8 actions in servicing a student loan.”.

9 In line 31, delete “(f)” and insert “(j)”.

10 On page 3, after line 6, insert:

11 “(5) The director may waive or modify a requirement set forth in this
12 section if the director determines that a person’s compliance with the re-
13 quirement would cause the person to violate federal law.”.

14 In line 16, delete “, registered agents”.

15 In line 41, after “(4)(a)” insert “Except as provided in paragraph (c) of this
16 subsection,”.

17 On page 4, line 22, after “pardoned” insert “or expunged”.

18 After line 22, insert:

19 “(c)(A) The director shall:

20 “(i) Find that an applicant that services a student loan under a contract
21 with the United States Secretary of Education under 20 U.S.C. 1087f meets
22 the criteria set forth in paragraph (a) of this subsection without the need to
23 comply with the procedures set forth in subsections (2) and (3) of this sec-
24 tion, except that the applicant must pay the fee required under subsection
25 (3) of this section and identify a registered agent in this state or appoint the
26 director as the applicant’s registered agent; and

27 “(ii) Issue and renew a license for an applicant that is described in and
28 complies with the provisions of sub-subparagraph (i) of this subparagraph.

29 “(B) Except as otherwise provided in this paragraph, a licensee that ob-
30 tains a license under this paragraph is subject to all of the requirements and

1 conditions set forth in sections 1 to 11 of this 2019 Act.

2 “(d) A licensee that obtained a license under paragraph (c) of this sub-
3 section shall notify the director in writing within seven days after the date
4 on which the contract described in paragraph (c)(A) of this subsection ex-
5 pires or terminates. At the expiration or termination of the contract, the
6 licensee becomes subject to the criteria set forth in this subsection and
7 subsections (2) and (3) of this section and, to continue to service a student
8 loan in this state, must meet the criteria within 30 days after the date on
9 which the contract expires or terminates. The director shall suspend the li-
10 cense of a licensee described in this paragraph that fails to meet the
11 criteria.”.

12 In line 23, after “(5)(a)” insert “Except as provided in paragraph (c) of this
13 subsection,”.

14 After line 28, insert:

15 “(C) Has had a license to service a student loan denied or revoked in
16 another jurisdiction;”.

17 In line 29, delete “(C)” and insert “(D)”.

18 In line 31, delete “(D)” and insert “(E)”.

19 After line 33, insert:

20 “(c) The director may not deny, revoke or decline to renew a license the
21 director issues under subsection (4)(c) of this section, but the director may
22 place conditions on issuing or renewing the license.”.

23 In line 39, after “renewal” insert “30 days”.

24 On page 5, line 6, after “section” delete the rest of the line.

25 In line 7, delete “cense to the notice the licensee provides to the director
26 under section 6 of this 2019 Act”.

27 In line 25, delete “(1)(a)” and insert “(1)”.

28 Delete lines 31 through 36.

29 In line 45, after the semicolon insert “and”.

30 On page 6, delete lines 1 and 2.

1 In line 3, delete “(C)” and insert “(B)”.

2 Delete lines 5 through 7.

3 In line 20, delete “with which the director filed an inventory under sub-
4 section (2)(b)(B) of this sec-” and insert “in the county in which the
5 licensee’s principal place of business in this state is located”.

6 In line 21, delete “tion”.

7 On page 8, line 6, after “(1)” insert “Except as otherwise required under
8 federal law, in a federal student loan agreement or in a contract between the
9 federal government and a person that services a student loan,”.

10 In line 10, after “payments” insert “or notifications of payment”.

11 In line 12, after “payment” insert “or notification of payment”.

12 After line 18, insert:

13 “(d) Maintain adequate records of each student loan transaction for not
14 less than two years, or a period otherwise specified by law, after a final
15 payment on a student loan or after the person assigns the student loan,
16 whichever occurs first. At the request of the Director of the Department of
17 Consumer and Business Services and within five days after the request or
18 within the time the director specifies in the request, the person shall make
19 the records available to the director or send the records to the director in
20 the manner the director specifies by rule.”.

21 Delete lines 34 through 39 and insert:

22 “(g) Fail to respond within 21 calendar days to a consumer complaint or
23 other communication from the student loan ombudsman at the Department
24 of Consumer and Business Services, or within a reasonable time that the
25 student loan ombudsman specifies in the communication. The person may
26 request in writing that the student loan ombudsman allow not more than 30
27 additional calendar days within which to respond if in the request the person
28 explains why the additional time is reasonable and necessary.

29 “(3) Subsections (1) and (2) of this section do not apply to:

30 “(a) A financial institution, as defined in ORS 706.008.

1 “(b) A financial holding company or bank holding company, both as de-
2 fined in ORS 706.008, if the financial holding company or bank holding
3 company does no more than control an affiliate or subsidiary, as defined in
4 12 U.S.C. 1841(d), and does not engage in business as a student loan servicer.

5 “(c) An attorney who is licensed or otherwise authorized to practice law
6 in this state if the attorney services a student loan only incidentally in the
7 course of practicing law.

8 “(d) A public body, as defined in ORS 174.109.

9 “(e) A public university listed in ORS 352.002.

10 “(f) A community college, as defined in ORS 341.005.

11 “(g) The Oregon Health and Science University.

12 “(h) A nonprofit, private, post-secondary institution that the Higher Ed-
13 ucation Coordinating Commission has authorized to confer academic degrees
14 under ORS 348.594 to 348.615.”.

15 On page 10, line 31, delete “January” and insert “July”.

16 Delete lines 41 through 45 and delete page 11 and insert:

17 **“SECTION 12. (1) As used in this section:**

18 **“(a) ‘Borrower’ has the meaning given that term in section 1 of this**
19 **2019 Act.**

20 **“(b) ‘Person’ has the meaning given that term in section 1 of this**
21 **2019 Act.**

22 **“(c) ‘Service a student loan’ has the meaning given that term in**
23 **section 1 of this 2019 Act.**

24 **“(d) ‘Student loan’ has the meaning given that term in section 1**
25 **of this 2019 Act.**

26 **“(2) The Higher Education Coordinating Commission shall develop**
27 **and operate a student loan counseling program that targets borrowers**
28 **who are repaying or soon will repay a student loan for the purpose of:**

29 **“(a) Informing the borrowers of the rights and responsibilities the**
30 **borrowers have under the terms of the student loan agreement into**

1 which the borrowers have entered;

2 “(b) Advising the borrowers concerning how to work with a person
3 that services a student loan to modify the terms of a student loan
4 agreement; and

5 “(c) Assisting the borrowers in avoiding defaults on student loans.

6 “(3) At the request of the Director of the Department of Consumer
7 and Business Services, the commission shall provide the director with
8 information about the program described in subsection (1) of this sec-
9 tion and about the interactions that persons that service student loans
10 have with borrowers.

11 “(4) The commission may enter into contracts or agreements with
12 public or private entities for the purpose of carrying out the
13 commission’s duties under this section.

14 “(5) The commission may adopt rules that are reasonably necessary
15 to implement the provisions of this section.

16 “SECTION 13. In addition to and not in lieu of any other appropri-
17 ation, there is appropriated to the Higher Education Coordinating
18 Commission, for the biennium beginning July 1, 2019, out of the Gen-
19 eral Fund, the amount of \$_____ for the purpose of carrying out the
20 commission’s functions and duties under section 12 of this 2019 Act.

21 “SECTION 14. Sections 1 to 11 of this 2019 Act apply to actions that
22 a person takes to service a student loan on or after the operative date
23 specified in section 15 of this 2019 Act.

24 “SECTION 15. (1) Sections 1 to 12 of this 2019 Act become operative
25 on July 1, 2020.

26 “(2) The Director of the Department of Consumer and Business
27 Services and the Higher Education Coordinating Commission may
28 adopt rules and take any other action before the operative date speci-
29 fied in subsection (1) of this section that is necessary to enable the
30 director or the commission, on and after the operative date specified

1 in subsection (1) of this section, to exercise all of the duties, functions
2 and powers conferred on the director or the commission by sections 1
3 to 12 of this 2019 Act.

4 **SECTION 16. This 2019 Act being necessary for the immediate**
5 **preservation of the public peace, health and safety, an emergency is**
6 **declared to exist, and this 2019 Act takes effect on its passage.”.**

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