

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Know Before You Owe Private Education Loan Act is amended by changing Sections 5 and 15 and by adding Sections 25 and 30 as follows:

(110 ILCS 983/5)

Sec. 5. Definitions. As used in this Act:

"Annual percentage rate" means the percentage rate calculated according to the Federal Reserve Board's methodology as set forth under Regulation Z, 12 CFR Part 1026.

"Cosigner" means any individual who is liable for the obligation of another without compensation, regardless of how the individual is designated in the contract or instrument with respect to that obligation, including an obligation under a private education loan extended to consolidate a borrower's preexisting student loans. The term includes any individual whose signature is requested, as a condition, to grant credit or to forbear on collection. The term does not include a spouse of an individual if the spouse's signature is needed solely to perfect the security interest in a loan.

"Educational expense" means any expense, in whole or in part, expressly used to finance postsecondary education,

regardless of whether the debt incurred by a student to pay that expense is owed to the provider of postsecondary education whose school, program, or facility the student attends.

"Income share agreement" means an agreement under which a borrower commits to pay a percentage of his or her future income in exchange for money, payments, or credits applied to or on behalf of a borrower. An income share agreement constitutes a loan and debt within the meaning of this Act.

"Income share agreement provider" means:

(1) a person that provides money, payments, or credits to or on behalf of a borrower pursuant to the terms of an income share agreement; or

(2) any other person engaged in the business of soliciting, making, funding, or extending income share agreements.

"Institution of higher education" includes, but is not limited to, institutions falling under the Private Business and Vocational Schools Act of 2012, the Private College Act, and public institutions of higher education as defined in Section 1 of the Board of Higher Education Act. "Institution of higher education" also includes a person engaged in the business of providing postsecondary education, via correspondence, online, or in this State, to a person located in this State, regardless of whether the person has obtained authorization from the Illinois Board of Higher Education to

operate in this State or is accredited.

"Private educational lender" and "private education loan" have the meanings ascribed to the terms in Section 140 of the Truth in Lending Act (15 U.S.C. 1650). In addition, "private educational lender" includes an income share agreement provider and a student financing company and "private education loan" includes an income share agreement and student financing.

"Student financing company" means a person engaged in the business of securing, making, or extending student financing. "Student financing company" does not include the following persons, only to the extent that State regulation is preempted by federal law:

(1) a federally chartered bank, savings bank, savings and loan association, or credit union;

(2) a wholly owned subsidiary of a federally chartered bank or credit union; and

(3) an operating subsidiary where each owner of the operating subsidiary is wholly owned by the same federally chartered bank or credit union.

"Student financing" means an extension of credit that:

(1) is not made, insured, or guaranteed under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

(2) is extended to a consumer expressly, in whole or in part, for postsecondary educational expenses,

regardless of whether the extension of credit is provided by the institution of higher education that the student attends;

(3) does not include a private education loan;

(4) does not include an income share agreement; and

(5) does not include a loan that is secured by real property or a dwelling.

(Source: P.A. 102-583, eff. 8-26-21.)

(110 ILCS 983/15)

Sec. 15. Provision of information.

(a) Provision of loan statement to borrowers and cosigners.

(1) Loan statement. A private educational lender that disburses any funds with respect to a private education loan described in this Section shall send loan statements to the borrowers and cosigners of those funds not less than once every 3 months during the time that the borrower is enrolled at an institution of higher education.

(2) Contents of statements for income share agreements. Each statement described in subparagraph (1) with respect to income share agreements, shall:

(A) report the consumer's total amounts financed under each income share agreement;

(B) report the percentage of income payable under each income share agreement;

(C) report the maximum number of monthly payments required to be paid under each income share agreement;

(D) report the maximum amount payable under each income share agreement;

(E) report the maximum duration of each income share agreement;

(F) report the minimum annual income above which payments are required under each income share agreement; and

(G) report the annual percentage rate for each income share agreement at the minimum annual income above which payments are required and at \$10,000 income increments thereafter up to the annual income where the maximum number of monthly payments results in the maximum amount payable.

(3) Contents of all other loan statements. Each statement described in subparagraph (1) that does not fall under subparagraph (2) shall:

(A) report the borrower's total remaining debt to the private educational lender, including accrued but unpaid interest and capitalized interest;

(B) report any debt increases since the last statement; and

(C) list the current annual percentage rate for each loan.

(b) Certification of exhaustion of federal student loan

funds to private educational lender. Upon the request of a private educational lender, acting in connection with an application initiated by a borrower for a private education loan in accordance with Section 5, the institution of higher education shall within 15 days of receipt of the request provide certification to such private educational lender:

(1) that the borrower who initiated the application for the private education loan, or on whose behalf the application was initiated, is enrolled or is scheduled to enroll at the institution of higher education;

(2) of the borrower's cost of attendance at the institution of higher education as determined under paragraph (2) of subsection (a) of this Section;

(3) of the difference between:

(A) the cost of attendance at the institution of higher education; and

(B) the borrower's estimated financial assistance received under the federal Higher Education Act of 1965 and other assistance known to the institution of higher education, as applicable;

(4) that the institution of higher education has received the request for certification and will need additional time to comply with the certification request; and

(5) if applicable, that the institution of higher education is refusing to certify the private education

loan.

(c) Certification of exhaustion of federal student loan funds to borrower. With respect to a certification request described under subsection (b), and prior to providing such certification in paragraph (1) of subsection (b) or providing notice of the refusal to provide certification under paragraph (5) of subsection (b), the institution of higher education shall:

(1) determine whether the borrower who initiated the application for the private education loan, or on whose behalf the application was initiated, has applied for and exhausted the federal financial assistance available to such borrower under the federal Higher Education Act of 1965 and inform the borrower and any cosigners accordingly;

(2) provide the borrower and any cosigners whose loan application has prompted the certification request by a private educational lender, as described in paragraph (1) of subsection (b), with the following information and disclosures:

(A) the amount of additional federal student assistance for which the borrower is eligible and the advantages of federal loans under the federal Higher Education Act of 1965, including disclosure of income driven repayment options, fixed interest rates, deferments, flexible repayment options, loan

forgiveness programs, additional protections, and the higher student loan limits for dependent borrowers whose parents are not eligible for a Federal Direct PLUS Loan;

(B) the borrower's ability to select a private educational lender of the borrower's choice;

(C) the impact of a proposed private education loan on the borrower's potential eligibility for other financial assistance, including federal financial assistance under the federal Higher Education Act; and

(D) the borrower's right to accept or reject a private education loan within the 30-day period following a private educational lender's approval of a borrower's application and the borrower's 3-day right to cancel period; and

(3) Any institution of higher education that is also acting as a private educational lender shall provide the certification of exhaustion of federal student loan funds described in paragraphs (1) and (2) of this subsection (c) to the borrower and any cosigners prior to disbursing funds to the borrower. Any institution of higher education that is not eligible for funding under Title IV of the federal Higher Education Act of 1965 is not required to provide this certification to the borrower or any cosigners.

(Source: P.A. 102-583, eff. 8-26-21; 102-813, eff. 5-13-22.)



(110 ILCS 983/25 new)

Sec. 25. Cosigner disclosure; notice. Before extending a private education loan that requires a cosigner, a private educational lender shall disclose to the cosigner:

(1) how the private education loan obligation will appear on the cosigner's credit report;

(2) how the cosigner will be notified if the private education loan becomes delinquent, including how the cosigner can cure the delinquency in order to avoid negative credit furnishing and the loss of cosigner release eligibility; and

(3) eligibility for release of the cosigner's obligation on the private education loan, including the number of on-time payments and any other criteria required to approve the release of the cosigner from the loan obligation.

(110 ILCS 983/30 new)

Sec. 30. Refinancing. Before offering a person a private education loan that is being used to refinance an existing education loan, a private educational lender shall provide the person with a disclosure explaining that the benefits and protections applicable to the existing loan may be lost due to the refinancing. The disclosure must be provided on a one-page information sheet in at least 12-point type and must be

written in simple, clear, understandable, and easily readable language.

Section 10. The Student Loan Servicing Rights Act is amended by changing Sections 1-5, 5-30, and 5-50 and by adding Sections 5-70, 5-75, 5-80, and 5-85 as follows:

(110 ILCS 992/1-5)

Sec. 1-5. Definitions. As used in this Act:

"Applicant" means a person applying for a license pursuant to this Act.

"Borrower" or "student loan borrower" means a person who has received or agreed to pay a student loan for his or her own educational expenses.

"Cosigner" means any individual who is liable for the obligation of another without compensation, regardless of how the individual is designated in the contract or instrument with respect to that obligation, including an obligation under a private education loan extended to consolidate a borrower's preexisting student loans. The term includes any individual whose signature is requested, as a condition, to grant credit or to forbear on collection. The term does not include a spouse of an individual if the spouse's signature is needed solely to perfect the security interest in a loan ~~a person who has agreed to share responsibility for repaying a student loan with a borrower.~~

"Department" means the Department of Financial and Professional Regulation.

"Division of Banking" means the Division of Banking of the Department of Financial and Professional Regulation.

"Federal loan borrower eligible for referral to a repayment specialist" means a borrower who possesses any of the following characteristics:

(1) requests information related to options to reduce or suspend his or her monthly payment;

(2) indicates that he or she is experiencing or anticipates experiencing financial hardship, distress, or difficulty making his or her payments;

(3) has missed 2 consecutive monthly payments;

(4) is at least 75 days delinquent;

(5) is enrolled in a discretionary forbearance for more than 9 of the previous 12 months;

(6) has rehabilitated or consolidated one or more loans out of default within the past 12 months; or

(7) has not completed a course of study, as reflected in the servicer's records, or the borrower identifies himself or herself as not having completed a program of study.

"Federal education loan" means any loan made, guaranteed, or insured under Title IV of the federal Higher Education Act of 1965.

"Income-driven payment plan certification" means the

documentation related to a federal student loan borrower's income or financial status the borrower must submit to renew an income-driven repayment plan.

"Income-driven repayment options" includes the Income-Contingent Repayment Plan, the Income-Based Repayment Plan, the Income-Sensitive Repayment Plan, the Pay As You Earn Plan, the Revised Pay As You Earn Plan, and any other federal student loan repayment plan that is calculated based on a borrower's income.

"Licensee" means a person licensed pursuant to this Act.

"Other repayment plans" means the Standard Repayment Plan, the Graduated Repayment Plan, the Extended Repayment Plan, or any other federal student loan repayment plan not based on a borrower's income.

"Private education loan" has the meaning ascribed to the term in Section 140 of the federal Truth in Lending Act (15 U.S.C. 1650). In addition, "private education loan" includes an income share agreement and student financing.

"Private loan borrower eligible for referral to a repayment specialist" means a borrower who possesses any of the following characteristics:

(1) requests information related to options to reduce or suspend his or her monthly payments; or

(2) indicates that he or she is experiencing or anticipates experiencing financial hardship, distress, or difficulty making his or her payments.

"Requester" means any borrower or cosigner that submits a request for assistance.

"Request for assistance" means all inquiries, complaints, account disputes, and requests for documentation a servicer receives from borrowers or cosigners.

"Secretary" means the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

"Servicing" means: (1) receiving any scheduled periodic payments from a student loan borrower or cosigner pursuant to the terms of a student loan; (2) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower or cosigner, as may be required pursuant to the terms of a student loan; and (3) performing other administrative services with respect to a student loan.

"Student loan" or "loan" means any federal education loan or other loan primarily for use to finance a postsecondary education and costs of attendance at a postsecondary institution, including, but not limited to, tuition, fees, books and supplies, room and board, transportation, and miscellaneous personal expenses. "Student loan" includes a loan made to refinance a student loan.

"Student loan" shall not include an extension of credit under an open-end consumer credit plan, a reverse mortgage

transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

"Student loan" shall not include an extension of credit made by a postsecondary educational institution to a borrower if one of the following apply:

(1) The term of the extension of credit is no longer than the borrower's education program.

(2) The remaining, unpaid principal balance of the extension of credit is less than \$1,500 at the time of the borrower's graduation or completion of the program.

(3) The borrower fails to graduate or successfully complete his or her education program and has a balance due at the time of his or her disenrollment from the postsecondary institution.

"Student loan servicer" or "servicer" means any person engaged in the business of servicing student loans. "Student loan servicer" or "servicer" includes persons or entities acting on behalf of the State Treasurer.

"Student loan servicer" shall not include:

(1) a bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(2) a wholly owned subsidiary of any bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(3) an operating subsidiary where each owner of the operating subsidiary is wholly owned by the same bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(4) the Illinois Student Assistance Commission and its agents when the agents are acting on the Illinois Student Assistance Commission's behalf;

(5) a public postsecondary educational institution or a private nonprofit postsecondary educational institution servicing a student loan it extended to the borrower;

(6) a licensed debt management service under the Debt Management Service Act, except to the extent that the organization acts as a subcontractor, affiliate, or service provider for an entity that is otherwise subject to licensure under this Act;

(7) any collection agency licensed under the Collection Agency Act that is collecting post-default debt;

(8) in connection with its responsibilities as a guaranty agency engaged in default aversion, a State or nonprofit private institution or organization having an agreement with the U.S. Secretary of Education under Section 428(b) of the Higher Education Act (20 U.S.C. 1078(B));

(9) a State institution or a nonprofit private

organization designated by a governmental entity to make or service student loans, provided in each case that the institution or organization services fewer than 20,000 student loan accounts of borrowers who reside in Illinois;

(10) a law firm or licensed attorney that is collecting post-default debt; or

(11) the State Treasurer.

"Total and permanent disability" means a physical or mental impairment, disease, or loss of a permanent nature that prevents employment with or without reasonable accommodation, with proof of disability being in the form of a declaration from the United States Social Security Administration, the Illinois Workers' Compensation Commission, the United States Department of Defense, or an insurer authorized to transact business in this State who is providing disability insurance coverage to a contractor. The term does not include a condition that has not progressed or been exacerbated or that the individual did not acquire until after the closing of the loan agreement. In addition, documentation sufficient to establish a total and permanent disability for a federal student loan made pursuant to Title IV of the federal Higher Education Act of 1965 is sufficient to establish a total and permanent disability under this Act.

(Source: P.A. 100-540, eff. 12-31-18; 100-635, eff. 12-31-18; 101-586, eff. 8-26-19.)



(110 ILCS 992/5-30)

Sec. 5-30. Specialized assistance for student loan borrowers.

(a) A servicer shall specially designate servicing and collections personnel deemed repayment specialists who have received enhanced training related to repayment options.

(b) A servicer shall refrain from presenting forbearance as the sole or first repayment option to a student loan borrower struggling with repayment unless the servicer has determined that, based on the borrower's financial status, a short term forbearance is appropriate.

(c) All inbound and outbound calls from a federal loan borrower eligible for referral to a repayment specialist and a private loan borrower eligible for referral to a repayment specialist shall be routed to a repayment specialist.

(d) During each inbound or outbound communication with an eligible federal loan borrower, a repayment specialist shall first inform a federal loan borrower eligible for referral to a repayment specialist that federal income-driven repayment plans that can reduce the borrower's monthly payment may be available, discuss such plans, and assist the borrower in determining whether a particular repayment plan may be appropriate for the borrower.

(e) A repayment specialist shall assess the long-term and short-term financial situation and needs of a federal loan borrower eligible for referral to a repayment specialist and

consider any available specific information from the borrower as necessary to assist the borrower in determining whether a particular income-driven repayment option may be available to the borrower.

(f) In each discussion with a federal loan borrower eligible for referral to a repayment specialist, a repayment specialist shall present and explain the following options, as appropriate:

- (1) total and permanent disability discharge, public service loan forgiveness, closed school discharge, and defenses to repayment;
- (2) other repayment plans;
- (3) deferment; and
- (4) forbearance.

(g) A repayment specialist shall assess the long-term and short-term financial situation and needs of a private loan borrower eligible for referral to a repayment specialist in determining whether any private loan repayment options may be appropriate for the borrower.

(h) A servicer shall present and explain all private loan repayment options, including alternative repayment arrangements applicable to private student loan borrowers.

(i) A servicer shall be prohibited from implementing any compensation plan that has the intended or actual effect of incentivizing a repayment specialist to violate this Act or any other measure that encourages undue haste or lack of

quality.

(j) The requirements of this Section shall not apply if a repayment specialist has already conversed with a borrower consistent with the requirements of this Section.

(k) A servicer shall:

(1) provide on its website a description of any modified or flexible repayment options offered by the lender for private education loans;

(2) establish policies and procedures and implement modified or flexible repayment options consistently in order to facilitate the evaluation of such option requests, including providing accurate information regarding any options that may be available to the borrower through the promissory note or that may have been marketed to the borrower through marketing materials; and

(3) consistently present and offer private education loan modification or flexible repayment options to all borrowers with similar financial circumstances if the servicer offers such modification or repayment options.

(l) A servicer may not place a loan or account into default or accelerate a loan while a borrower is seeking a loan modification or enrollment in a modified or flexible repayment plan, except that a servicer may place a loan or account into default or accelerate a loan for payment default 90 days or more after the borrower's default.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/5-50)

Sec. 5-50. Cosigner release.

(a) For private student loans, a servicer shall provide information on its website concerning the availability and criteria for a cosigner release.

(b) For any private education loan that obligates a cosigner, a servicer shall provide the borrower and the cosigner an annual written notice containing information about cosigner release, including the administrative and objective criteria the servicer requires to approve the release of the cosigner from the loan obligation and the process for applying for cosigner release. If the borrower has met the applicable payment requirement to be eligible for cosigner release, the servicer shall send the borrower and the cosigner a written notification by mail, and by electronic mail if the borrower or cosigner has elected to receive electronic communications from the servicer, informing the borrower and cosigner that the payment requirement to be eligible for cosigner release has been met. The notification must also include information about any additional criteria to qualify for cosigner release and the procedure to apply for cosigner release.

(c) A servicer shall provide written notice to a borrower who applies for cosigner release but whose application is incomplete. The written notice must include a description of the information needed to consider the application complete

and the date by which the applicant must furnish the missing information in order to complete the application.

(d) Within 30 days after a borrower submits a completed application for cosigner release, the servicer shall send the borrower and cosigner a written notice that informs the borrower and cosigner whether the servicer has approved or denied the cosigner release application. If the servicer denies a request for cosigner release, the borrower may request copies of any documents or information used in the determination, including the credit score threshold used by the servicer, the borrower's credit report, the borrower's credit score, and any other documents or information specific to the borrower. The servicer shall also provide any adverse action notices required under applicable federal law if the denial is based in whole or in part on any information contained in a credit report.

(e) In response to a written or oral request by the borrower for cosigner release, a servicer shall provide to the borrower the information described in subsection (b) of this Section.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/5-70 new)

Sec. 5-70. Cosigner release rights.

(a) A servicer may not impose any restriction that permanently bars a borrower from qualifying for cosigner

release, including restricting the number of times a borrower may apply for cosigner release.

(b) A servicer may not impose any negative consequences on a borrower or cosigner during the 60 days following the issuance of the notice required pursuant to subsection (c) of Section 5-50 of this Act or until the servicer makes a final determination about a borrower's cosigner release application, whichever occurs later. As used in this subsection (b), "negative consequences" includes the imposition of additional eligibility criteria, negative credit reporting, lost eligibility or cosigner release, late fees, interest capitalization, or other financial injury.

(c) For any private education loan issued on or after the effective date of this amendatory Act of the 103rd General Assembly, a servicer may not require proof of more than 12 consecutive, on-time payments as part of the criteria for cosigner release. A borrower who has paid the equivalent of 12 months of principal and interest payments within any 12-month period is deemed to have satisfied the consecutive, on-time payment requirement even if the borrower has not made payments monthly during the 12-month period. If a borrower or cosigner requests a change in terms that restarts the count of consecutive, on-time payments required for cosigner release, the servicer shall notify the borrower and cosigner in writing of the impact of the change and provide the borrower and cosigner with the right to withdraw or reverse the request to

avoid the impact.

(d) A borrower may request an appeal of a servicer's determination to deny a request for cosigner release, and the servicer shall permit the borrower to submit additional documentation evidencing the borrower's ability, willingness, and stability to meet the payment obligations. The borrower may request that another employee of the servicer review the cosigner release determination.

(e) A servicer shall establish and maintain a comprehensive record management system reasonably designed to ensure the accuracy, integrity, and completeness of information about cosigner release applications and to ensure compliance with applicable State and federal laws. The system must include the number of cosigner-release applications received, the approval and denial rate, and the primary reasons for any denial.

(110 ILCS 992/5-75 new)

Sec. 5-75. Cosigner and borrower rights.

(a) A servicer shall provide a cosigner with access to all documents or records related to the cosigned private education loan that are available to the borrower.

(b) If a servicer provides electronic access to documents and records for a borrower, it shall provide equivalent electronic access to the cosigner.

(c) Upon a borrower's request, the servicer shall redact

the borrower's contact information from documents and records provided to a cosigner.

(d) A servicer may not include in a private education loan executed on or after the effective date of this amendatory Act of the 103rd General Assembly a provision that permits the servicer to accelerate payments, in whole or in part, except upon a payment default. A servicer may not place any loan or account into default or accelerate a loan for any reason other than payment default.

(e) A private education loan executed before the effective date of this amendatory Act of the 103rd General Assembly may permit the servicer to accelerate payments only if the promissory note or loan agreement explicitly authorizes an acceleration and only for the reasons stated in the note or agreement.

(110 ILCS 992/5-80 new)

Sec. 5-80. Bankruptcy or death of cosigner.

(a) If a cosigner dies, the servicer may not attempt to collect against the cosigner's estate other than for payment default.

(b) With regard to the death or bankruptcy of a cosigner, if a private education loan is not more than 60 days delinquent at the time the servicer is notified of the cosigner's death or bankruptcy, the servicer may not change any terms or benefits under the promissory note, the repayment schedule, the



repayment terms, or the monthly payment amount or any other provision associated with the loan.

(110 ILCS 992/5-85 new)

Sec. 5-85. Total and permanent disability of borrower or cosigner.

(a) For any private education loan issued on or after the effective date of this amendatory Act of the 103rd General Assembly, a servicer, when notified of the total and permanent disability of a borrower or cosigner, shall release the cosigner from the obligations of a cosigner under the private education loan. The servicer may not attempt to collect a payment from a cosigner following a notification of total and permanent disability of the borrower or cosigner.

(b) A servicer shall be notified of the total and permanent disability of a borrower and discharge the liability of the borrower and cosigner on the loan.

(c) After receiving a notification described in subsection (b) of this Section, the servicer may not:

(1) attempt to collect on the outstanding liability of the borrower or cosigner; or

(2) monitor the disability status of the borrower at any point after the date of discharge.

(d) A servicer shall, within 30 days after the release of either a cosigner or borrower from the obligation of a private education loan pursuant to subsection (a) or (b) of this

Section, notify both the borrower and cosigner of the release.

(e) A servicer shall, within 30 days after receiving notice of the total and permanent disability of a borrower pursuant to subsection (a) of this Section, provide the borrower with an option to designate an individual to have the legal authority to act on behalf of the borrower.

(f) If a cosigner is released from the obligations of a private education loan pursuant to subsection (a) of this Section, the servicer may not require the borrower to obtain another cosigner on the loan obligation.

(g) A servicer may not declare a default or accelerate the debt against a borrower on the sole bases of the release of the cosigner from the loan obligation due to total and permanent disability pursuant to subsection (a) of this Section.

Section 99. Effective date. This Act takes effect upon becoming law.