

STATE STUDENT LOAN SERVICING LAWS

Bills of Rights,
Licensure, and
Student Loan
Ombudspeople

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The views expressed here are those of the speaker, and do not represent the official view of the Illinois Attorney General's Office.

WHAT IS A STUDENT LOAN SERVICER?

- Per the U.S. Department of Education:
 - “A loan servicer is a company that handles the billing and other services on your federal student loan. The loan servicer will work with you on repayment plans and loan consolidation and will assist you with other tasks related to your federal student loan. It is important to maintain contact with your loan servicer. If your circumstances change at any time during your repayment period, your loan servicer will be able to help.”

STATE STUDENT LOAN SERVICING LAWS

- California, Colorado, Connecticut, the District of Columbia, Illinois, Maine, Maryland, Nevada, New Jersey, New York, Rhode Island, Virginia, and Washington have passed student loan servicing laws.
- Arizona, Massachusetts, New Hampshire, Oregon, & South Carolina have proposed bills.
- The provisions vary by state. Some require licensure, some have student loan bills of rights, some create student loan advocates/ombudspeople.



ILLINOIS'S STUDENT LOAN SERVICING RIGHTS ACT

(110 ILCS
992/1-1 et
seq.)

ILLINOIS'S ACT:

1. Creates a Student Loan Bill of Rights
2. Creates a Student Loan Ombudsman; and
3. Requires Servicer Licensure.

ILLINOIS'S STUDENT LOAN BILL OF RIGHTS

110 ILCS 992/5-5 ET SEQ.

Requires Student Loan Servicers to:

- Provide prompt and accurate handling of payments. *110 ILCS 992/5-30 (c)*
- Train personnel on repayment plans. *110 ILCS 992/5-30*
- Struggling borrowers must be routed to a repayment specialist. *110 ILCS 992/5-30 (c)*
- Servicers must assess the financial situation of struggling borrowers to determine if alternative repayment options are available. *110 ILCS 992/5-30 (e) & (g)*

Gives Borrowers the Right to:

- A free payment history on request. *110 ILCS 992/5-25*
- A timely dispute resolution and appeal. *110 ILCS 992/5-65*

ILLINOIS STUDENT LOAN OMBUDSMAN

110 ILCS 992/10-5

Illinois's Student Loan Ombudsman:

- Attempts to resolve borrower complaints against loan servicers, schools, and other student lending participants.
- Compiles and analyzes complaint data.
- Provides information to the public, agencies, and legislature on student lending problems and recommend solutions.

LICENSING OF STUDENT LOAN SERVICERS

- Banks, guaranty agencies, and schools are excluded from licensing. *110 ILCS 992/15-5(b)*
- Approximately 30 student loan servicers are currently licensed in Illinois.
- Servicers use the Nationwide Mortgage Licensing System (NMLS) to post reports and other requested information. *110 ILCS 992/15-25; 15-30*
- The Secretary of Financial and Professional Regulation can levy fines, examine books and records, issue subpoenas, and investigate complaints, among other powers. *110 ILCS 992/20-5*

SLSA V DC

- The court held that DC's licensing requirement preempted to the extent that a servicer services student loans on behalf of and as contracted by the federal government.
- The court held that DC's licensing requirement "impermissibly second-guesses" the federal government's choice of contractor. *Student Loan Servicing All. v. Dist. of Columbia*, 351 F. Supp. 3d 26, 62 (D.D.C. 2018).

NELSON V GREAT LAKES

- Nelson claimed that Great Lakes held itself out as working on borrowers' behalf, and then deceptively steered her into a repayment plan that benefitted Great Lakes, not her.
- Great Lakes asserted that the borrower's claims were preempted by Sec. 1098(g) of the Higher Education Act, which states that federal student loans "shall not be subject to any disclosure requirements of any State law. 20 U.S.C. § 1098g
- "Imposing liability for those voluntary but deceptive statements does not impose additional 'disclosure requirements' on Great Lakes." *Nelson v. Great Lakes Educ. Loan Services, Inc.*, 928 F.3d 639, 648–49 (7th Cir. 2019)

HIGHLIGHTS FROM OTHER STATES

- Colorado provides automatic licenses for servicers who are servicing on behalf of the federal government. *Colo. Rev. Stat. Ann. § 5-20-106*
 - New Jersey has a similar provision. *N.J. Stat. Ann. § 17:16ZZ-5*
- Similar to Illinois, Colorado's statute requires servicers to analyze borrowers for alternative repayment options. *Colo. Rev. Stat. Ann. § 5-20-109*
 - New Jersey and Maine have similar provisions. *N.J. Stat. Ann. § 17:16ZZ-8; Me. Rev. Stat. tit. 9-A, § 14-108 (2) (F)*

PHEAA V CONNECTICUT

- Connecticut ordered PHEAA to provide documents on the federal government's public service loan forgiveness (PSLF) program.
- The Department of Education (ED) told PHEAA not to provide the information, as ED interpreted the Privacy Act to preclude production.
- The court held that Connecticut's law was conflict preempted, as PHEAA could not comply with both the federal government and Connecticut's laws. See *Pennsylvania Higher Educ. Assistance Agency v. Perez*, 2020 WL 2079634, at *7 (D. Conn. Apr. 30, 2020)
- California's banking regulator [sued PHEAA for failing to provide TEACH grant information](#), and faces a similar defense.