

### **286.12-080 Prohibited practices.**

- (1) As used in this section, "consumer reporting agency" means a consumer reporting agency that compiles and maintains files on a nationwide basis as defined in the Fair Credit Reporting Act, 15 U.S.C. sec. 1681a(p).
- (2) A student education loan servicer shall not engage in abusive acts or practices, including but not limited to acts or practices that:
  - (a) Materially interfere with the ability of a borrower to clarify a term or condition of a student education loan; or
  - (b) Fail to educate and inform the borrower of any of the following:
    1. The material risks, costs, or conditions of a student education loan;
    2. Selecting or using a student education loan or a feature, term, or condition of a student education loan; or
    3. Accurate and relevant information related to loan payments of the loans serviced by the servicer.
- (3) A student education loan servicer shall not:
  - (a) Employ any scheme, device, or artifice to defraud or mislead a borrower;
  - (b) Engage in any unfair, deceptive, or predatory practice toward any borrower or misrepresent or omit any material information in connection with servicing a student education loan, including but not limited to:
    1. Misrepresenting the:
      - a. Amount, nature, or terms of any fee or payment due or claimed to be due on a student education loan;
      - b. Terms and conditions of the student education loan agreement or any modification to the agreement; or
      - c. Borrower's obligations under the student education loan; and
    2. With respect to a military borrower, older borrower, borrower working in public service, or a borrower with a disability, misrepresenting or omitting the availability of a program or protection specific to the respective borrower or applicable to the respective category of borrowers;
  - (c) Misapply payments made by a borrower to the outstanding loan balance;
  - (d) Refuse to communicate with an authorized representative of the borrower, except the servicer may adopt reasonable procedures for:
    1. Requesting verifying documentation that the representative is in fact authorized to act on behalf of the borrower; and
    2. Protecting the borrower from fraud or abusive practices;
  - (e) Make any false statement or omit a material fact in connection with any information or report filed with a governmental agency or in connection with any investigation conducted by the commissioner or any other governmental agency;
  - (f) If the student education loan servicer is required to report, or voluntarily

reports, to a consumer reporting agency, fail to accurately report each borrower's payment performance to a least one (1) consumer reporting agency upon acceptance as a data furnisher by that consumer reporting agency; or

(g) Fail to respond to:

1. Written correspondence from, or on behalf of, a borrower within a reasonable time as prescribed by the commissioner in administrative regulation;
2. A communication from the commissioner or the commissioner's examiner or designated representative, as applicable, within ten (10) business days or within a shorter, reasonable time as the commissioner or the commissioner's examiner or designated representative may provide in the communication; or
3. A borrower complaint submitted to the servicer by the commissioner or the commissioner's examiner or designated representative, as applicable, within ten (10) business days of receipt of the complaint, or upon request from the servicer explaining why the additional time is reasonable and necessary, a longer time as the commissioner or the commissioner's examiner or designated representative may permit, not to exceed forty-five (45) days.

**Effective:** July 14, 2022

**History:** Created 2022 Ky. Acts ch. 88, sec. 9, effective July 14, 2022.