

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0916.01 Yelana Love x2295

SENATE BILL 23-248

SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

(None),

Senate Committees
Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING CONSUMER PROTECTION IN CERTAIN CREDIT**
102 **TRANSACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill amends the "Uniform Consumer Credit" (code) by:

- Updating the renewal dates for entities required to be licensed under the code from January 31 of each year to July 1 of each year;
- Creating the consumer credit unit cash fund, into which all

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

fees collected under the code on and after July 1, 2024, must be deposited; and

- Repealing the uniform consumer credit code cash fund and the collection agency cash fund and transferring the balances remaining in the funds to the consumer credit unit cash fund.

The bill amends language in the "Colorado Fair Debt Collection Practices Act" relating to the duty of the code administrator to maintain confidentiality to align with the code and the "Colorado Student Loan Equity Act".

The bill amends the "Colorado Student Loan Equity Act" by:

- Requiring licensed entities to include an annual report upon application for license renewal;
- Amending the term "private education loan" to "private education credit" and updating corresponding terms accordingly;
- Defining the term "refinanced" and excluding student loans subject to refinancing from registration requirements; and
- Including a cosignor within the definition of "borrower".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 5-2-301, **amend** (1)
3 introductory portion and (1)(b) as follows:

4 **5-2-301. Authority to make supervised loans.** (1) Unless a
5 person is a supervised financial organization or has first obtained a
6 license from the administrator authorizing ~~him or her~~ THE PERSON to
7 make supervised loans, ~~he or she~~ THE PERSON shall not engage in the
8 business of:

9 (b) Taking assignments of and undertaking direct collection of
10 payments from or enforcement of rights against consumers arising from
11 supervised loans, INCLUDING SERVICING SUPERVISED LOANS; except that
12 a person who is licensed by the administrator as a collection agency
13 pursuant to article 16 of this title 5 or is licensed by the Colorado supreme
14 court to practice law, and who takes assignment of supervised loans only

1 after such loans are in default, is not required to obtain a supervised
2 lender license to engage in the activities described in this subsection
3 (1)(b).

4 **SECTION 2.** In Colorado Revised Statutes, 5-2-302, **amend** (8);
5 and **add** (10) and (11) as follows:

6 **5-2-302. License to make supervised loans - consumer credit**
7 **unit cash fund - rules - definition - repeal.** (8) Each license shall be
8 renewed by payment of a nonrefundable license fee and the filing of a
9 renewal form. The fee and renewal form ~~shall be~~ ARE due each ~~January~~
10 ~~31. If a licensee fails to pay the prescribed fee on or before March 1, it~~
11 ~~shall pay a penalty of five dollars per day per license from March 2 to the~~
12 ~~date the payment is postmarked. However,~~ JULY 1. If a licensee fails to
13 FILE THE RENEWAL FORM AND pay the appropriate renewal ~~and penalty~~
14 fees by ~~March 15~~ JULY 1, its license ~~shall~~ automatically ~~expire~~ EXPIRES.

15 (10) (a) LICENSES ISSUED BY THE ADMINISTRATOR IN 2023 EXPIRE
16 ON JULY 1, 2024. THE ADMINISTRATOR MAY ASSESS AN ADDITIONAL FEE
17 IN JANUARY 2024 TO COVER THE DIRECT AND INDIRECT COSTS OF
18 ADMINISTERING THIS SECTION UNTIL NOTIFICATION RENEWALS ARE DUE
19 JULY 1, 2024.

20 (b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2026.

21 (11) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
22 CONSUMER CREDIT UNIT CASH FUND, REFERRED TO IN THIS SUBSECTION
23 (11) AS THE "FUND". THE FUND CONSISTS OF ALL FEES COLLECTED
24 PURSUANT TO THIS ARTICLE 2 AND ARTICLES 6, 10, 16, 19, AND 21 OF THIS
25 TITLE 5 ON AND AFTER JULY 1, 2024. THE MONEY IN THE FUND IS
26 CONTINUOUSLY APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY
27 TO BE EXPENDED BY THE ADMINISTRATOR TO PAY FOR THE DIRECT AND

1 INDIRECT COSTS OF THE ADMINISTRATION AND ENFORCEMENT OF THIS
2 ARTICLE 2 AND ARTICLES 6, 10, 16, 19, AND 21 OF THIS TITLE 5.

3 (b) THE ADMINISTRATOR MAY ESTABLISH A FEE SCHEDULE FOR THE
4 PAYMENT AND COLLECTION OF FEES DESCRIBED IN THIS ARTICLE 2 AND
5 ARTICLES 6, 10, 16, 19, AND 21 OF THIS TITLE 5.

6 (c) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
7 OF MONEY IN THE FUND IS CREDITED TO THE FUND. AT THE END OF EACH
8 FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND
9 REMAINS IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO
10 THE GENERAL FUND OR ANY OTHER FUND.

11 (d) IN ACCORDANCE WITH SECTION 24-75-402 (3)(c), THE
12 ALTERNATIVE MAXIMUM RESERVE FOR THE FUND IS ONE-THIRD OF THE
13 AMOUNT EXPENDED FROM THE FUND DURING EACH FISCAL YEAR.

14 (e) ON AND AFTER JULY 1, 2024, THE ADMINISTRATOR SHALL
15 TRANSFER ALL FEES COLLECTED UNDER THIS ARTICLE 2 AND UNDER
16 ARTICLES 10, 16, 19, AND 21 OF THIS TITLE 5 TO THE STATE TREASURER,
17 WHO SHALL CREDIT THE FEES TO THE FUND.

18 **SECTION 3.** In Colorado Revised Statutes, 5-6-201, **amend** (3)
19 as follows:

20 **5-6-201. Applicability.** (3) ~~Sections 5-6-203 (5) and 5-6-204~~
21 SECTION 5-6-204 of this part 2 ~~apply~~ APPLIES to all fees collected under
22 this code.

23 **SECTION 4.** In Colorado Revised Statutes, 5-6-202, **amend** (1)
24 introductory portion and (2) as follows:

25 **5-6-202. Notification.** (1) Persons subject to this part 2 shall file
26 notification with, and pay the fee prescribed in section 5-6-203 to, the
27 administrator within thirty days after commencing business in this state

1 and, thereafter, on or before ~~January 31~~ JULY 1 of each year. The
2 notification ~~shall~~ MUST state:

3 (2) If information in a notification becomes inaccurate after filing,
4 no further notification is required until the following ~~January 31~~
5 NOTIFICATION.

6 **SECTION 5.** In Colorado Revised Statutes, 5-6-203, **amend** (1),
7 (3), and (4); and **repeal** (5) as follows:

8 **5-6-203. Fees - repeal.** (1) (a) A person required to file
9 notification shall, with the first notification ~~and~~ on or before ~~January 31~~
10 ~~of~~ JULY 1, 2024, AND ON OR BEFORE JULY 1 each year thereafter, pay to
11 the administrator a nonrefundable annual notification fee. The
12 administrator ~~is entitled to~~ MAY examine the loans, business, and records
13 of such A person without issuance of a subpoena.

14 (b) (I) NOTIFICATIONS ISSUED BY THE ADMINISTRATOR IN
15 CALENDAR YEAR 2023 EXPIRE ON JULY 1, 2024. THE ADMINISTRATOR MAY
16 ASSESS AN ADDITIONAL NOTIFICATION FEE IN JANUARY 2024 TO COVER
17 THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS SECTION UNTIL
18 NOTIFICATION RENEWALS ARE DUE JULY 1, 2024.

19 (II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

20 (3) (a) Persons required to file notification who are assignees of
21 consumer credit sales or consumer leases shall pay an additional
22 nonrefundable annual volume fee on or before ~~January 31~~ of each year for
23 ~~each~~ JULY 1, 2024, AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER,
24 FOR one hundred thousand dollars, or part thereof, of the unpaid balances
25 at the time of the assignment of obligations arising from consumer credit
26 sales or consumer leases made in this state and taken by assignment
27 during the preceding calendar year. PERSONS REQUIRED TO FILE

1 NOTIFICATION SHALL REPORT ANY SUCH VOLUME TO THE ADMINISTRATOR
2 ON OR BEFORE MARCH 1 IN THE FORM AND MANNER DETERMINED BY THE
3 ADMINISTRATOR. THE ADMINISTRATOR MAY CHARGE A LATE FEE FOR
4 FAILURE TO REPORT SUCH A VOLUME.

5 (b) (I) A PERSON THAT PAYS A VOLUME FEE IN CALENDAR YEAR
6 2023 IS NOT REQUIRED TO PAY A RENEWAL OF THE VOLUME FEE UNTIL
7 JULY 1, 2024. THE ADMINISTRATOR MAY ASSESS AN ADDITIONAL VOLUME
8 FEE IN JANUARY 2024 TO COVER THE DIRECT AND INDIRECT COSTS OF
9 ADMINISTERING THIS SECTION UNTIL VOLUME FEE RENEWALS ARE DUE ON
10 JULY 1, 2024.

11 (II) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

12 (4) THE ADMINISTRATOR SHALL IMPOSE a penalty of five dollars
13 per day ~~shall be imposed~~ on any person ~~failing~~ THAT FAILS to comply with
14 this section. ~~except that, if the fees required by this section are paid on or~~
15 ~~before March 1 of each year, no penalty shall be imposed.~~ If a person
16 required to file notification and pay a notification fee fails to do so, the
17 consumer ~~shall have~~ HAS no obligation to pay the finance charge due
18 under the consumer credit transaction, and any finance charges paid shall
19 be refunded to the consumer. In addition, if the administrator examines
20 the loans, business, or records of such person, the person shall pay the
21 reasonable and necessary examination expenses of the administrator.

22 (5) (a) ~~The administrator shall determine the amount of the~~
23 ~~notification, volume, and license fees required in this section and in~~
24 ~~section 5-2-302 and may periodically reduce or increase the amount of~~
25 ~~one or more of the fees if necessary pursuant to section 24-75-402 (3) and~~
26 ~~(4), C.R.S., to reduce the uncommitted reserves of the uniform consumer~~
27 ~~credit code cash fund created in section 5-6-204 to which all or any~~

1 ~~portion of one or more of the fees is credited.~~

2 (b) ~~In accordance with section 24-75-402 (3)(c), C.R.S., for fiscal~~
3 ~~years prior to July 1, 2018, the uniform consumer credit code cash fund~~
4 ~~is subject to an alternative maximum reserve of one-third of the amount~~
5 ~~expended during the previous fiscal year. For fiscal years that begin on or~~
6 ~~after July 1, 2018, the fund is subject to the maximum reserve established~~
7 ~~in section 24-75-402, C.R.S.~~

8 **SECTION 6.** In Colorado Revised Statutes, 5-6-204, **amend** (1);
9 and **add** (1.5) as follows:

10 **5-6-204. Cash fund created - repeal.** (1) (a) All fees collected
11 under this code and under article 10 of this title 5 PRIOR TO JULY 1, 2024,
12 shall be credited to the uniform consumer credit code cash fund, which
13 is created and referred to in this section as the "fund", and all money
14 credited to the fund shall be used for the administration and enforcement
15 of this code, article 10 of this title 5, and article 19 of this title 5. Interest
16 earned on the fund shall be credited to the fund. The general assembly
17 shall make annual appropriations out of the fund for the administration
18 and enforcement of this code, article 10 of this title 5, and article 19 of
19 this title 5; except that expenditures by the administrator for consumer
20 and creditor education resulting from the penalties provided in sections
21 5-2-303 (7)(f), 5-6-109 (1), 5-6-110, and 5-6-114 (2) shall not require
22 appropriation by the general assembly if the expenditures do not exceed
23 twenty-five thousand dollars per fiscal year and do not include the hiring
24 of any full-time equivalents.

25 (b) ON SEPTEMBER 30, 2024, THE STATE TREASURER SHALL
26 TRANSFER THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE
27 UNIFORM CONSUMER CREDIT CODE CASH FUND TO THE CONSUMER CREDIT

1 UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

2 (c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2026.

3 (1.5) ON AND AFTER JULY 1, 2024, THE STATE TREASURER SHALL
4 CREDIT ALL FEES COLLECTED UNDER THIS ARTICLE 6 TO THE CONSUMER
5 CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

6 **SECTION 7.** In Colorado Revised Statutes, 5-10-804, **amend**
7 (1)(b) as follows:

8 **5-10-804. Notification by lessors - contents - repeal.** (1) A
9 lessor shall file a notification as prescribed in subsection (2) of this
10 section with the administrator:

11 (b) (I) Before ~~February 1~~ JULY 1 in each subsequent year that the
12 lessor solicits or enters into a rental purchase agreement subject to this
13 ~~article~~ ARTICLE 10.

14 (II) (A) NOTIFICATIONS ISSUED BY THE ADMINISTRATOR IN
15 CALENDAR YEAR 2023 EXPIRE ON JULY 1, 2024.

16 (B) THIS SUBSECTION (1)(b)(II) IS REPEALED, EFFECTIVE JULY 1,
17 2026.

18 **SECTION 8.** In Colorado Revised Statutes, 5-10-805, **amend** (1);
19 **repeal** (3); and **add** (4) as follows:

20 **5-10-805. Fees.** (1) A lessor required to file a notification with
21 the administrator under section 5-10-804 shall pay to the administrator the
22 following fees:

23 (a) ~~Fifty dollars~~ A FEE IN AN AMOUNT TO BE ESTABLISHED BY THE
24 ADMINISTRATOR for each address listed in section 5-10-804 (2)(c), paid
25 at the time of the filing of the initial notification with the administrator;

26 (b) ~~Twenty-five dollars~~ A FEE IN AN AMOUNT TO BE ESTABLISHED
27 BY THE ADMINISTRATOR for each address listed in section 5-10-804 (2)(c),

1 paid at the time of the filing of each annual notification subsequently filed
2 with the administrator.

3 (3) ~~Notwithstanding the amount specified for any fee in this~~
4 ~~section, the administrator by rule or as otherwise provided by law may~~
5 ~~reduce the amount of one or more of the fees if necessary pursuant to~~
6 ~~section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the~~
7 ~~fund to which all or any portion of one or more of the fees is credited.~~
8 ~~After the uncommitted reserves of the fund are sufficiently reduced, the~~
9 ~~administrator by rule or as otherwise provided by law may increase the~~
10 ~~amount of one or more of the fees as provided in section 24-75-402 (4);~~
11 ~~C.R.S.~~

12 (4) ON AND AFTER JULY 1, 2024, THE STATE TREASURER SHALL
13 CREDIT ALL FEES COLLECTED UNDER THIS ARTICLE 10 TO THE CONSUMER
14 CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

15 **SECTION 9.** In Colorado Revised Statutes, 5-16-134 **amend** (1);
16 and **add** (1.5) as follows:

17 **5-16-134. Disposition of fees and fines - repeal.** (1) (a) All
18 revenue, except fines, collected pursuant to this article 16 BEFORE JULY
19 1, 2024, shall be collected by the administrator and transmitted to the state
20 treasurer, who shall credit the ~~same~~ MONEY to the collection agency cash
21 fund, which fund is ~~hereby~~ created and referred to in this section as the
22 "fund". The general assembly shall make annual appropriations from the
23 fund for the uses and purposes of this article 16. All revenue credited to
24 the fund, including earned interest, shall be used for the administration
25 and enforcement of this article 16.

26 (b) ~~Notwithstanding any provision of subsection (1)(a) of this~~
27 ~~section to the contrary, on March 27, 2002, the state treasurer shall deduct~~

1 ~~four hundred sixty-two thousand dollars from the fund and transfer such~~
2 ~~sum to the general fund.~~

3 ~~(c) Notwithstanding any provision of subsection (1)(a) of this~~
4 ~~section to the contrary, on March 5, 2003, the state treasurer shall deduct~~
5 ~~one hundred twenty thousand dollars from the fund and transfer such sum~~
6 ~~to the general fund.~~

7 (b) ON SEPTEMBER 30, 2024, OR AS SOON AS PRACTICABLE AFTER
8 THAT DATE, THE STATE TREASURER SHALL TRANSFER THE UNEXPENDED
9 AND UNENCUMBERED BALANCE OF THE COLLECTION AGENCY CASH FUND
10 TO THE CONSUMER CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302
11 (11).

12 (c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2026.

13 (1.5) ON AND AFTER JULY 1, 2024, THE STATE TREASURER SHALL
14 CREDIT ALL FEES COLLECTED UNDER THIS ARTICLE 16 TO THE CONSUMER
15 CREDIT UNIT CASH FUND CREATED IN SECTION 5-2-302 (11).

16 **SECTION 10.** In Colorado Revised Statutes, 5-16-127, **add** (13)
17 as follows:

18 **5-16-127. Complaint - investigations - powers of administrator**
19 **- sanctions.** (13) THE ADMINISTRATOR SHALL NOT MAKE PUBLIC THE
20 NAME OR IDENTITY OF A PERSON WHOSE ACTS OR CONDUCT THE
21 ADMINISTRATOR INVESTIGATES PURSUANT TO THIS SECTION OR THE FACTS
22 DISCLOSED IN THE INVESTIGATION. THIS SUBSECTION (13) DOES NOT APPLY
23 TO DISCLOSURES BY THE ADMINISTRATOR IN ACTIONS OR ADMINISTRATIVE
24 ENFORCEMENT PROCEEDINGS PURSUANT TO THIS ARTICLE 16.

25 **SECTION 11.** In Colorado Revised Statutes, 5-19-205, **amend**
26 (b)(1) as follows:

27 **5-19-205. Application for registration - form, fee, and**

1 **accompanying documents - repeal.** (b) An application for registration
2 as a provider shall be accompanied by:

3 (1) The fee established by the administrator. The administrator
4 shall transmit the fee to the state treasurer, who shall:

5 (A) (i) FOR FEES COLLECTED PRIOR TO JULY 1, 2024, deposit ~~it~~ THE
6 MONEY in the uniform consumer credit code cash fund created in section
7 5-6-204 (1).

8 (ii) THIS SUBSECTION (b)(1)(A) IS REPEALED, EFFECTIVE JULY 1,
9 2026.

10 (B) FOR FEES COLLECTED ON AND AFTER JULY 1, 2024, DEPOSIT
11 THE MONEY IN THE CONSUMER CREDIT UNIT CASH FUND CREATED IN
12 SECTION 5-2-302 (11).

13 **SECTION 12.** In Colorado Revised Statutes, 5-21-106, **amend**
14 (2) as follows:

15 **5-21-106. Fees - repeal.** (2) The administrator shall transmit the
16 fees REQUIRED BY SUBSECTION (1) OF THIS SECTION to the state treasurer,
17 who shall credit ~~them~~ THE FEES COLLECTED:

18 (a) (I) BEFORE JULY 1, 2024, to the uniform consumer credit code
19 cash fund created in section 5-6-204 (1).

20 (II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE JULY 1, 2026.

21 (b) ON AND AFTER JULY 1, 2024, TO THE CONSUMER CREDIT UNIT
22 CASH FUND CREATED IN SECTION 5-2-302 (11).

23 **SECTION 13.** In Colorado Revised Statutes, 5-20-102, **amend**
24 (2) as follows:

25 **5-20-102. Scope of article - residence of debtor.** (2) Part 2 of
26 this article 20 applies to private education ~~lenders~~, creditors and
27 collection agencies in connection with ~~those~~ student education loans that

1 are not made, insured, or guaranteed under federal law and that are used
2 for postsecondary education.

3 **SECTION 14.** In Colorado Revised Statutes, 5-20-106, **amend**
4 (1)(a) and (10); and **add** (5)(d) as follows:

5 **5-20-106. Licensure of student loan servicers. (1) Automatic**
6 **issuance of license for federal student loan servicing contractors.**

7 (a) A person seeking to act within this state as a student loan servicer is
8 exempt from the application procedures described in subsection (2) of this
9 section upon a determination by the administrator that the person is a
10 party to a contract awarded by the United States secretary of education
11 under 20 U.S.C. sec. ~~1087f~~ **1078, 1087f, OR 1087hh**, as amended. The
12 administrator shall prescribe the procedure to document eligibility for the
13 exemption.

14 (5) **License renewal - annual report.** (d) ALONG WITH THE
15 APPLICATION FOR RENEWAL, EVERY LICENSEE SHALL FILE WITH THE
16 ADMINISTRATOR, IN THE FORM AND MANNER DETERMINED BY THE
17 ADMINISTRATOR, AN ANNUAL REPORT CONCERNING LOANS SERVICED BY
18 THE LICENSEE. INFORMATION INCLUDED IN AN ANNUAL REPORT FILED
19 PURSUANT TO THIS SUBSECTION (5)(d) IS CONFIDENTIAL AND MAY BE
20 PUBLISHED ONLY IN AGGREGATE FORM, WITH NO PERSONAL IDENTIFYING
21 INFORMATION INCLUDED.

22 (10) **Records retention - records request.** A student loan
23 servicer shall maintain adequate records of each student education loan
24 transaction AND ALL COMMUNICATIONS IN CONNECTION WITH STUDENT
25 EDUCATION LOAN SERVICING for not less than two years after the final
26 payment on the student education loan or the assignment of the student
27 education loan, whichever occurs first, ~~or~~ except as otherwise required by

1 federal law, a federal student education loan agreement, or a contract
2 between the federal government and a licensee. Upon request by the
3 administrator, a student loan servicer shall make the records available or
4 shall send the records to the administrator by registered or certified mail,
5 return receipt requested, or by any express delivery carrier that provides
6 a dated delivery receipt, not later than five business days after requested
7 by the administrator. Upon a licensee's request, the administrator may
8 grant the licensee additional time to make the records available or to send
9 the records to the administrator.

10 **SECTION 15.** In Colorado Revised Statutes, 5-20-202, **amend**
11 (1), (2)(a), (7), and (8); **repeal** (3) and (6); and **add** (7.5) and (8.5) as
12 follows:

13 **5-20-202. Definitions.** As used in this part 2, unless the context
14 otherwise requires:

15 (1) "Collection agency" means a collection agency, as defined in
16 section 5-16-103 (3), that collects or attempts to collect, directly or
17 indirectly, a consumer debt resulting from a private education ~~loan~~
18 CREDIT. The term includes a debt buyer, as defined in section 5-16-103
19 (8.5).

20 (2) (a) "Cosigner" means any individual who is liable for the
21 obligation of another without compensation, regardless of how the
22 individual is designated in the contract or instrument with respect to that
23 obligation, including an obligation under a private education ~~loan~~ CREDIT
24 extended to consolidate a borrower's preexisting student loans. The term
25 includes any individual whose signature is requested as a condition to
26 grant credit or to forbear on collection.

27 (3) "~~Creditor~~" ~~means the seller, lessor, lender, or person who~~

1 ~~makes or arranges a private education loan and to whom the loan is~~
2 ~~initially payable, or the assignee of a creditor's right to payment, but use~~
3 ~~of the term does not in itself impose on an assignee any obligation of the~~
4 ~~assignor. "Creditor" does not include a collection agency as defined in~~
5 ~~section 5-16-103 (3).~~

6 (6) (a) ~~"Private education lender" or "lender" means:~~

7 ~~(I) Any person engaged in the business of making or extending~~
8 ~~private education loans;~~

9 ~~(II) A holder of a private education loan; or~~

10 ~~(III) A creditor.~~

11 (b) ~~"Private education lender" or "lender" does not include:~~

12 ~~(I) A bank, as defined in 12 U.S.C. sec. 1841 (c);~~

13 ~~(II) A credit union; or~~

14 ~~(III) An industrial bank organized under Title 7, Chapter 8,~~
15 ~~Financial Institutions Act, Utah Code Annotated, as amended.~~

16 (7) (a) ~~"Private education loan CREDIT" means a student education~~
17 ~~loan CREDIT that, UNLESS OTHERWISE EXEMPT:~~

18 (I) ~~Is not made, insured, or guaranteed under Title IV of the~~
19 ~~FEDERAL "Higher Education Act of 1965", 20 U.S.C. sec. 1070 et seq., as~~
20 ~~amended; and~~

21 (II) ~~Is extended to a consumer expressly, in whole or in part, for~~
22 ~~postsecondary educational expenses, regardless of whether the loan~~
23 ~~CREDIT is provided by the postsecondary educational institution that the~~
24 ~~student attends, INCLUDING A PAYMENT PLAN OR FINANCING.~~

25 (b) ~~"Private education loan CREDIT" does not include:~~

26 (I) ~~A loan that is secured by real property, regardless of the~~
27 ~~purpose of the loan; or~~

1 (II) An extension of credit in which the covered postsecondary
2 educational institution is the ~~lender~~ CREDITOR if:

3 (A) The term of the extension of credit is ninety days or less; or

4 (B) An interest rate is not applied to the credit balance and the
5 term of the extension of credit is one year or less, even if the credit is
6 payable in more than four installments.

7 (7.5)(a) "PRIVATE EDUCATION CREDITOR" OR "CREDITOR" MEANS:

8 (I) ANY PERSON ENGAGED IN THE BUSINESS OF MAKING OR
9 EXTENDING PRIVATE EDUCATION CREDIT;

10 (II) A HOLDER OF A PRIVATE EDUCATION CREDIT; OR

11 (III) A SELLER, LESSOR, LENDER, OR PERSON THAT MAKES OR
12 ARRANGES A PRIVATE EDUCATION CREDIT AND TO WHOM THE PRIVATE
13 EDUCATION CREDIT IS INITIALLY PAYABLE OR THE ASSIGNEE OF A
14 CREDITOR'S RIGHT TO PAYMENT.

15 (b) "PRIVATE EDUCATION CREDITOR" OR "CREDITOR" DOES NOT
16 INCLUDE:

17 (I) A BANK, AS DEFINED IN 12 U.S.C. SEC. 1841 (c);

18 (II) A CREDIT UNION;

19 (III) AN INDUSTRIAL BANK ORGANIZED UNDER TITLE 7, CHAPTER
20 8, "FINANCIAL INSTITUTIONS ACT", UTAH CODE ANNOTATED, AS
21 AMENDED; OR

22 (IV) A COLLECTION AGENCY, AS DEFINED IN SECTION 5-16-103(3).

23 (8) "Private education ~~loan~~ CREDIT borrower" means any resident
24 of Colorado, including a student loan borrower, who has received or
25 agreed to pay a private education ~~loan~~ CREDIT for the resident's own
26 postsecondary education expenses OR ANY RESIDENT OF COLORADO WHO
27 COSIGNS FOR A PRIVATE EDUCATION CREDIT.

1 (8.5) "REFINANCED" MEANS AN EXISTING PRIVATE EDUCATION
2 CREDIT IS SATISFIED AND REPLACED BY A NEW PRIVATE EDUCATION
3 CREDIT UNDERTAKEN BY THE SAME CONSUMER.

4 **SECTION 16.** In Colorado Revised Statutes, 5-20-203, **amend**
5 (2) introductory portion, (2)(b)(I), (2)(b)(III), and (2)(b)(IV) as follows:

6 **5-20-203. Registration of private education creditors -**
7 **penalties - rules.** (2) A private education ~~lender~~ CREDITOR shall:

8 (b) Provide the administrator, at the time of registration and not
9 less than once per year thereafter, as established by the administrator by
10 rule, and at other times upon the administrator's request, with the
11 following documents and information:

12 (I) A list of all schools at which the private education ~~lender~~
13 CREDITOR has provided A private education ~~loans~~ CREDIT to a private
14 education ~~loan~~ CREDIT borrower; EXCEPT THAT THIS REQUIREMENT DOES
15 NOT APPLY TO A PRIVATE EDUCATION CREDIT THAT IS REFINANCED;

16 (III) The volume of private education ~~loans~~ CREDITS made
17 annually at each school identified under subsection (2)(b)(I) of this
18 section; EXCEPT THAT THIS REQUIREMENT DOES NOT APPLY TO A PRIVATE
19 EDUCATION CREDIT THAT IS REFINANCED;

20 (IV) The default rate for private education ~~loan~~ CREDIT borrowers
21 obtaining private education ~~loans~~ CREDITS from the private education
22 ~~lender~~ CREDITOR, including the default rate for private education ~~loans~~
23 CREDITS made to private education ~~loan~~ CREDIT borrowers at each school
24 listed pursuant to subsection (2)(b)(I) of this section; EXCEPT THAT THIS
25 REQUIREMENT DOES NOT APPLY TO A PRIVATE EDUCATION CREDIT THAT IS
26 REFINANCED;

27 **SECTION 17.** In Colorado Revised Statutes, **amend** 5-20-204 as

1 follows:

2 **5-20-204. Cosigner disclosures.** (1) Before extending a private
3 education ~~loan~~ CREDIT that requires a cosigner, a private education ~~lender~~
4 CREDITOR shall disclose to the cosigner:

5 (a) How the private education ~~loan~~ CREDIT obligation will appear
6 on the cosigner's credit;

7 (b) How the cosigner will be notified if the private education ~~loan~~
8 CREDIT becomes delinquent, including how the cosigner can cure the
9 delinquency in order to avoid negative credit furnishing and loss of
10 cosigner release eligibility; and

11 (c) Eligibility for release of the cosigner's obligation on the private
12 education ~~loan~~ CREDIT, including the number of on-time payments and
13 any other criteria required to approve the release of the cosigner from the
14 ~~loan~~ CREDIT obligation.

15 (2) For any private education ~~loan~~ CREDIT that obligates a
16 cosigner, a ~~lender~~ CREDITOR shall provide the private education ~~loan~~
17 CREDIT borrower and the cosigner an annual written notice containing
18 information about cosigner release, including the administrative,
19 objective criteria the ~~lender~~ CREDITOR requires to approve the release of
20 the cosigner from the ~~loan~~ CREDIT obligation and the process for applying
21 for cosigner release. If the private education ~~loan~~ CREDIT borrower has
22 met the applicable payment requirement to be eligible for cosigner
23 release, the ~~lender~~ CREDITOR shall send the private education ~~loan~~ CREDIT
24 borrower and the cosigner a written notification by mail, and by electronic
25 mail if a private education ~~loan~~ CREDIT borrower or cosigner has elected
26 to receive electronic communications from the ~~lender~~ CREDITOR,
27 informing the private education ~~loan~~ CREDIT borrower and cosigner that

1 the payments requirement to be eligible for cosigner release has been met.
2 The notification must also include information about any additional
3 criteria to qualify for cosigner release and the procedure to apply for
4 cosigner release.

5 (3) A ~~lender~~ CREDITOR shall provide written notice to a private
6 education ~~loan~~ CREDIT borrower who applies for cosigner release but
7 whose application is incomplete. The written notice must include a
8 description of the information needed to consider the application
9 complete and the date by which the applicant must furnish the missing
10 information in order to complete the application.

11 (4) Within thirty days after a private education ~~loan~~ CREDIT
12 borrower submits a completed application for cosigner release, the ~~lender~~
13 CREDITOR shall send the private education ~~loan~~ CREDIT borrower and
14 cosigner a written notice that informs the private education ~~loan~~ CREDIT
15 borrower and cosigner whether the ~~lender~~ CREDITOR has approved or
16 denied the cosigner release application. If the ~~lender~~ CREDITOR denies a
17 request for cosigner release, the private education ~~loan~~ CREDIT borrower
18 may request copies of any documents or information used in the
19 determination, including the credit score threshold used by the ~~lender~~
20 CREDITOR, the private education ~~loan~~ CREDIT borrower's consumer report,
21 the private education ~~loan~~ CREDIT borrower's credit score, and any other
22 documents or information specific to the private education ~~loan~~ CREDIT
23 borrower. The ~~lender~~ CREDITOR shall also provide any adverse action
24 notices required under applicable federal law if the denial is based in
25 whole or in part on any information contained in a consumer report.

26 (5) In response to a written or oral request by the private education
27 ~~loan~~ CREDIT borrower for cosigner release, a ~~lender~~ CREDITOR shall

1 provide to the private education ~~loan~~ CREDIT borrower the information
2 described in subsection (2) of this section.

3 **SECTION 18.** In Colorado Revised Statutes, **amend 5-20-205** as
4 follows:

5 **5-20-205. Cosigner release.** (1) A ~~lender~~ CREDITOR shall not
6 impose any restriction that permanently bars a private education ~~loan~~
7 CREDIT borrower from qualifying for cosigner release, including
8 restricting the number of times a private education ~~loan~~ CREDIT borrower
9 may apply for cosigner release.

10 (2) A ~~lender~~ CREDITOR shall not impose any negative
11 consequences on a private education ~~loan~~ CREDIT borrower or cosigner
12 during the sixty days following the issuance of the notice required
13 pursuant to section 5-20-204 (3) or until the ~~lender~~ CREDITOR makes a
14 final determination about a private education ~~loan~~ CREDIT borrower's
15 cosigner release application, whichever occurs later. As used in this
16 subsection (2), "negative consequences" includes the imposition of
17 additional eligibility criteria, negative credit reporting, lost eligibility for
18 cosigner release, late fees, interest capitalization, or other financial injury.

19 (3) For any private education ~~loan~~ CREDIT issued on or after June
20 29, 2021, a ~~lender~~ CREDITOR shall not require proof of more than twelve
21 consecutive, on-time payments as part of the criteria for cosigner release.
22 A private education ~~loan~~ CREDIT borrower who has paid the equivalent of
23 twelve months of principal and interest payments within any
24 twelve-month period is deemed to have satisfied the consecutive, on-time
25 payment requirement even if the private education ~~loan~~ CREDIT borrower
26 has not made payments monthly during the twelve-month period. If a
27 private education ~~loan~~ CREDIT borrower or cosigner requests a change in

1 terms that restarts the count of consecutive, on-time payments required
2 for cosigner release, the ~~lender~~ CREDITOR shall notify the private
3 education ~~loan~~ CREDIT borrower and cosigner in writing of the impact of
4 the change and provide the private education ~~loan~~ CREDIT borrower or
5 cosigner the right to withdraw or reverse the request to avoid that impact.

6 (4) A private education ~~loan~~ CREDIT borrower may request an
7 appeal of a ~~lender's~~ CREDITOR'S determination to deny a request for
8 cosigner release, and the ~~lender~~ CREDITOR shall permit the private
9 education ~~loan~~ CREDIT borrower to submit additional documentation
10 evidencing the private education ~~loan~~ CREDIT borrower's ability,
11 willingness, and stability to meet the payment obligations. The private
12 education ~~loan~~ CREDIT borrower may request that another employee of the
13 ~~lender~~ CREDITOR review the cosigner release determination.

14 (5) A ~~lender~~ CREDITOR shall establish and maintain a
15 comprehensive record management system reasonably designed to ensure
16 the accuracy, integrity, and completeness of information about cosigner
17 release applications and to ensure compliance with applicable state and
18 federal laws, including the FEDERAL "Equal Credit Opportunity Act", 15
19 U.S.C. sec. 1691 et seq., as amended, and the FEDERAL "Fair Credit
20 Reporting Act", 15 U.S.C. sec. 1681 et seq., as amended. This system
21 must include the number of cosigner release applications received, the
22 approval and denial rate, and the primary reasons for any denial.

23 **SECTION 19.** In Colorado Revised Statutes, **amend 5-20-206** as
24 follows:

25 **5-20-206. Cosigner rights.** (1) A ~~lender~~ CREDITOR shall provide
26 a cosigner with access to all documents or records related to the cosigned
27 private education ~~loan~~ CREDIT that are available to the private education

1 ~~loan~~ CREDIT borrower.

2 (2) (a) If a ~~lender~~ CREDITOR provides electronic access to
3 documents and records for a private education ~~loan~~ CREDIT borrower, it
4 THE CREDITOR shall provide equivalent electronic access to the cosigner.

5 (b) Upon the private education ~~loan~~ CREDIT borrower's request,
6 the ~~lender~~ CREDITOR shall redact the private education ~~loan~~ CREDIT
7 borrower's contact information from documents and records provided to
8 a cosigner.

9 (3) A ~~lender~~ CREDITOR shall not include in a private education
10 ~~loan~~ CREDIT executed after June 29, 2021, a provision that permits the
11 ~~lender~~ CREDITOR to accelerate payments, in whole or in part, except upon
12 a payment default. A ~~lender~~ CREDITOR shall not place any ~~loan~~ CREDIT or
13 account into default or accelerate a ~~loan~~ CREDIT for any reason other than
14 payment default.

15 (4) A private education ~~loan~~ CREDIT executed before June 29,
16 2021, may permit the ~~lender~~ CREDITOR to accelerate payments only if the
17 promissory note or ~~loan~~ CREDIT agreement explicitly authorizes an
18 acceleration and only for the reasons stated in the note or agreement.

19 **SECTION 20.** In Colorado Revised Statutes, **amend 5-20-207** as
20 follows:

21 **5-20-207. Bankruptcy or death of cosigner.** (1) If a cosigner
22 dies, the ~~lender~~ CREDITOR shall not attempt to collect against the
23 cosigner's estate other than for payment default.

24 (2) With regard to the death or bankruptcy of a cosigner, if a
25 private education ~~loan~~ CREDITOR is not more than sixty days delinquent
26 at the time the ~~lender~~ CREDITOR is notified of the cosigner's death or
27 bankruptcy, the ~~lender~~ CREDITOR shall not change any terms or benefits

1 under the promissory note, repayment schedule, repayment terms, or
2 monthly payment amount or any other provision associated with the ~~loan~~
3 CREDIT.

4 **SECTION 21.** In Colorado Revised Statutes, **amend 5-20-208** as
5 follows:

6 **5-20-208. Total and permanent disability of the private**
7 **education credit borrower or cosigner.** (1) For any private education
8 ~~loan~~ CREDIT issued on or after June 29, 2021, a private education ~~lender~~
9 CREDITOR, when notified of the total and permanent disability of a private
10 education ~~loan~~ CREDIT borrower or cosigner, shall release any cosigner
11 from the obligations of the cosigner under a private education ~~loan~~
12 CREDIT. The ~~lender~~ CREDITOR shall not attempt to collect a payment from
13 a cosigner following a notification of total and permanent disability of the
14 private education ~~loan~~ CREDIT borrower or cosigner.

15 (2) A ~~lender~~ CREDITOR shall, when notified of the total and
16 permanent disability of a private education ~~loan~~ CREDIT borrower,
17 discharge the liability of the private education ~~loan~~ CREDIT borrower and
18 cosigner on the ~~loan~~ CREDIT.

19 (3) After receiving a notification described in subsection (2) of
20 this section, the ~~lender~~ CREDITOR shall not:

21 (a) Attempt to collect on the outstanding liability of the private
22 education ~~loan~~ CREDIT borrower or cosigner; or

23 (b) Monitor the disability status of the private education ~~loan~~
24 CREDIT borrower at any point after the date of discharge.

25 (4) A ~~lender~~ CREDITOR shall, within thirty days after the release
26 of either a cosigner or private education ~~loan~~ CREDIT borrower from the
27 obligations of a private education ~~loan~~ CREDIT pursuant to subsection (1)

1 or (2) of this section, notify both the private education ~~loan~~ CREDIT
2 borrower and cosigner of the release.

3 (5) A ~~lender~~ CREDITOR shall, within thirty days after receiving
4 notice of the total and permanent disability of a private education ~~loan~~
5 CREDIT borrower pursuant to subsection (1) of this section, provide the
6 private education ~~loan~~ CREDIT borrower an option to designate an
7 individual to have the legal authority to act on behalf of the private
8 education ~~loan~~ CREDIT borrower.

9 (6) If a cosigner is released from the obligations of a private
10 education ~~loan~~ CREDIT pursuant to subsection (1) of this section, the
11 ~~lender~~ CREDITOR shall not require the private education ~~loan~~ CREDIT
12 borrower to obtain another cosigner on the ~~loan~~ CREDIT obligation.

13 (7) A ~~lender~~ CREDITOR shall not declare a default or accelerate the
14 debt against the private education ~~loan~~ CREDIT borrower on the sole basis
15 of the release of the cosigner from the ~~loan~~ CREDIT obligation due to total
16 and permanent disability pursuant to subsection (1) of this section.

17 **SECTION 22.** In Colorado Revised Statutes, **amend 5-20-209** as
18 follows:

19 **5-20-209. Refinancing - additional disclosures - limitations on**
20 **default pending approval.** (1) Before offering a person a private
21 education ~~loan~~ CREDIT that is being used to refinance an existing
22 education ~~loan~~ CREDIT, a private education ~~lender~~ CREDITOR shall provide
23 the person a disclosure explaining that benefits and protections applicable
24 to the existing ~~loan~~ CREDIT may be lost due to the refinancing. The
25 disclosure must be provided on a one-page information sheet in at least
26 twelve-point type and must be written in simple, clear, understandable,
27 and easily readable language.

1 (2) If a private education ~~lender~~ CREDITOR offers any private
2 education ~~loan~~ CREDIT borrower modified or flexible repayment options
3 in connection with a private education ~~loan~~ CREDIT, the ~~lender~~ CREDITOR
4 shall offer those modified or flexible repayment options to all of ~~its~~ THE
5 CREDITOR'S private education ~~loan~~ CREDIT borrowers. In addition, the
6 ~~lender~~ CREDITOR shall:

7 (a) Provide on its website a description of any modified or flexible
8 repayment options offered by the ~~lender~~ CREDITOR for private education
9 ~~loans~~ CREDITS;

10 (b) Establish policies and procedures and implement modified or
11 flexible repayment options consistently in order to facilitate the
12 evaluation of private education ~~loan~~ CREDIT modified or flexible
13 repayment option requests, including providing accurate information
14 regarding any such options that may be available to the private education
15 ~~loan~~ CREDIT borrower through the promissory note or that may have been
16 marketed to the private education ~~loan~~ CREDIT borrower through
17 marketing materials; and

18 (c) Consistently present and offer private education ~~loan~~ CREDIT
19 modified or flexible repayment options to private education ~~loan~~ CREDIT
20 borrowers with similar financial circumstances, if the ~~lender~~ CREDITOR
21 offers such repayment options.

22 (3) A private education ~~lender~~ CREDITOR shall not place a ~~loan~~
23 CREDIT or account into default or accelerate a ~~loan~~ CREDIT while a private
24 education ~~loan~~ CREDIT borrower is seeking a ~~loan~~ CREDIT modification or
25 enrollment in a modified or flexible repayment plan; except that a ~~lender~~
26 CREDITOR may place a ~~loan~~ CREDIT or account into default or accelerate
27 a ~~loan~~ CREDIT for payment default ninety days after the private education

1 ~~loan~~ CREDIT borrower's default.

2 **SECTION 23.** In Colorado Revised Statutes, 5-20-210, **amend**
3 (1) introductory portion, (1)(a), and (1)(c) as follows:

4 **5-20-210. Prohibited conduct.** (1) A private education ~~lender~~
5 CREDITOR shall not:

6 (a) Offer any private education ~~loan~~ CREDIT that ~~is~~ DOES not ~~in~~
7 ~~conformity~~ COMPLY with this part 2 or WITH rules or orders of the
8 administrator THAT ARE ISSUED under this part 2 or that violates any other
9 state or federal law;

10 (c) (I) Take an assignment of earnings of the PRIVATE EDUCATION
11 CREDIT borrower or cosigner for payment or as a security for payment of
12 a debt arising out of a private education ~~loan~~ CREDIT. An assignment of
13 earnings in violation of this section is unenforceable by the assignee of
14 the earnings and revocable by the borrower or cosigner.

15 (II) A sale of unpaid earnings made in consideration of the
16 payment of money to or for the account of the seller of the earnings is
17 deemed to be a ~~loan~~ CREDIT to the seller, secured by an assignment of
18 earnings.

19 **SECTION 24.** In Colorado Revised Statutes, 5-20-211, **amend**
20 (1) as follows:

21 **5-20-211. Record retention - confidentiality.** (1) A private
22 education ~~lender~~ CREDITOR shall establish and maintain records and
23 permit the administrator to access and copy any records or records
24 systems required to be maintained pursuant to this part 2 or rules of the
25 administrator adopted to implement this part 2. The ~~lender~~ CREDITOR shall
26 retain loan files, including any records specified for retention under rules
27 of the administrator, for not less than six years after the termination of the

1 ~~loan~~ CREDIT account.

2 **SECTION 25.** In Colorado Revised Statutes, 5-20-212, **amend**
3 (1), (1.5)(a), (2), (3), (4)(a), (5), (6) introductory portion, (6)(b), and
4 (6)(d) as follows:

5 **5-20-212. Collection on debt - prerequisites - documentation.**

6 (1) Unless the private education ~~loan~~ CREDIT borrower has invoked ~~his~~
7 ~~or her~~ THE BORROWER'S right to cease communication with the collection
8 agency, a collection agency attempting to collect a private education ~~loan~~
9 CREDIT shall provide the following information, in addition to any other
10 information required under applicable federal or state law, to the private
11 education ~~loan~~ CREDIT borrower in the debt collection communication
12 immediately following the communication confirming the correct identity
13 of the private education ~~loan~~ CREDIT borrower and at any other time the
14 private education ~~loan~~ CREDIT borrower so requests:

15 (a) For private education ~~loans~~ CREDITS referred to collections on
16 or after June 29, 2021, the name of the owner of the private education
17 ~~loan~~ CREDIT debt;

18 (b) The name of the true original ~~lender~~ CREDITOR and every
19 subsequent ~~loan~~ CREDIT holder, if applicable;

20 (c) The true original ~~lender's~~ CREDITOR'S account number used to
21 identify the private education ~~loan~~ CREDIT debt at the time of default, if
22 the true original ~~lender~~ CREDITOR used an account number to identify the
23 private education ~~loan-debt~~ CREDIT at the time of default. The collection
24 agency may rely on account numbers provided by the ~~lender~~ CREDITOR.

25 (d) The amount due when the private education ~~loan~~ CREDIT was
26 referred to collections;

27 (e) For private education ~~loans~~ CREDITS referred to collections on

1 or after June 29, 2021, a log of all payments made on the student ~~loan~~
2 CREDIT account;

3 (f) A copy of all pages of the contract, application, or other
4 documents evidencing the private education ~~loan~~ CREDIT borrower's
5 liability for the private education ~~loan~~ CREDIT, stating all terms and
6 conditions applicable to the ~~loan~~ CREDIT; and

7 (g) A clear and conspicuous statement disclosing that the private
8 education ~~loan~~ CREDIT borrower has a right to request all nonprivileged
9 information possessed by the ~~lender~~ CREDITOR or collection agency
10 related to the defaulted private education ~~loan~~ CREDIT debt, including the
11 required information described in subsection (2) of this section, and that
12 failure to provide that information within thirty days after such a request
13 precludes the collection agency from collecting or attempting to collect
14 the ~~debt~~ CREDIT.

15 (1.5) (a) From the information listed in subsection (1) of this
16 section, the collection agency may redact the private education ~~loan~~
17 CREDIT borrower's social security number, all but the last four digits of the
18 private education ~~loan~~ CREDIT borrower's account number, and any other
19 personal identifying information. A collection agency that, in good faith,
20 attempts to validate the identity of the borrower and sends the information
21 required by this section in conjunction with the notice required by 15
22 U.S.C. sec. 1692g (a) is deemed to have verified the identity of the
23 borrower for purposes of this section.

24 (2) A collection agency shall not collect or attempt to collect a
25 private education ~~loan~~ CREDIT debt unless the collection agency
26 possesses, and furnishes the following information to the private
27 education ~~loan~~ CREDIT borrower upon request within thirty days after the

1 request; and, for ~~loans~~ CREDITS referred to collections before June 29,
2 2021, the collection agency shall have thirty days to acquire the
3 information from the private education ~~lender~~ CREDITOR:

4 (a) The name of the owner of the private education ~~loan~~ CREDIT;

5 (b) The name of the true original ~~lender~~ CREDITOR and every
6 subsequent ~~loan~~ CREDIT holder, if applicable;

7 (c) The true original ~~lender's~~ CREDITOR'S account number used to
8 identify the private education ~~loan~~ CREDIT at the time of default, if the
9 true original ~~lender~~ CREDITOR used an account number to identify the ~~loan~~
10 CREDIT at the time of default, and the account number assigned to the ~~loan~~
11 CREDIT by each subsequent ~~loan~~ CREDIT holder, if known;

12 (d) The amount due when the private education ~~loan~~ CREDIT was
13 referred to collections;

14 (e) An itemization of interest and fees, if any, claimed to be owed
15 and whether those were imposed by the true original ~~lender~~ CREDITOR or
16 any subsequent owners of the private education ~~loan~~ CREDITOR. The
17 collection agency may rely on information provided by the ~~lender~~
18 CREDITOR.

19 (f) The date that the private education ~~loan~~ CREDIT was incurred;

20 (g) A billing statement or other account record indicating the date
21 of the last payment made on the private education ~~loan~~ CREDIT, if
22 applicable;

23 (h) (I) A log of all collection attempts made by the collection
24 agency in the immediately preceding twelve months, including the date
25 and time of all calls and letters; and

26 (II) For private education ~~loans~~ CREDITS referred to collections on
27 or after June 29, 2021, copies of all settlement letters or, in the

1 alternative, a statement that the collection agency has not attempted to
2 settle or otherwise renegotiate the ~~debt~~ CREDIT;

3 (i) A copy of all pages of the contract, application, or other
4 documents evidencing the private education ~~loan~~ CREDIT borrower's
5 liability for the private education ~~loan~~ CREDIT, stating all terms and
6 conditions applicable to the ~~loan~~ CREDIT; and

7 (j) Documentation establishing that the collection agency is the
8 owner, or acting on behalf of the owner, of the specific, individual private
9 education ~~loan~~ CREDIT at issue. If the private education ~~loan~~ CREDIT
10 borrower disputes the ownership or assignment of the ~~loan~~ CREDIT, the
11 collection agency ~~shall bear~~ HAS the burden of establishing the unbroken
12 chain of ownership, beginning with the true original ~~lender~~ CREDITOR to
13 the first subsequent ~~loan~~ CREDIT holder and each additional ~~loan~~ CREDIT
14 holder.

15 (3) Upon a private education ~~loan~~ CREDIT borrower's default in
16 payment on a private education ~~loan~~ CREDIT, and before a ~~lender~~
17 CREDITOR may accelerate the maturity of the ~~loan~~ CREDIT or commence
18 a legal action against the private education ~~loan~~ CREDIT borrower, the
19 ~~lender~~ CREDITOR shall provide to the private education ~~loan~~ CREDIT
20 borrower a notice of intention to accelerate the ~~loan~~ CREDIT. The ~~lender~~
21 CREDITOR shall provide the notice at least thirty days, but not more than
22 one hundred days, in advance of the action.

23 (4) (a) A ~~lender~~ CREDITOR or debt buyer that intends to collect or
24 attempt to collect a private education ~~loan-debt~~ CREDIT shall provide
25 written notice of that intention to the private education ~~loan~~ CREDIT
26 borrower by registered or certified mail, return receipt requested, at the
27 private education ~~loan~~ CREDIT borrower's last-known address.

1 (5) An action to enter a judgment against a private education ~~loan~~
2 CREDIT borrower must be commenced within six years of the date the
3 private education ~~loan~~ CREDIT borrower failed to make a payment.

4 (6) A ~~lender~~ CREDITOR or collection agency that, on or after June
5 29, 2021, commences a legal action against a private education ~~loan~~
6 CREDIT borrower shall attach the following documentation and
7 information to the complaint filed in a court of competent jurisdiction:

8 (b) The date of the partial or missed payment that led to the
9 referral of the private education ~~loan~~ CREDIT to collections;

10 (d) A statement as to whether the ~~lender~~ CREDITOR or collection
11 agency is willing to renegotiate the terms of the ~~debt~~ CREDIT;

12 **SECTION 26.** In Colorado Revised Statutes, 5-20-213, **amend**
13 (1)(a), (2) introductory portion, (2)(a), (2)(b), (2)(d), and (2)(g) as
14 follows:

15 **5-20-213. Actions - counterclaims.** (1) (a) For litigation
16 proceedings commenced on or after June 29, 2021, a court shall not enter
17 a judgment on a private education ~~loan~~ CREDIT obligation if the collection
18 agency does not comply with the requirements of section 5-20-212.

19 (2) If a ~~lender~~ CREDITOR or collection agency fails to comply with
20 the requirements of this part 2, a private education ~~loan~~ CREDIT borrower
21 may bring an action, including a counterclaim, against the ~~lender~~
22 CREDITOR or collection agency to recover or obtain:

23 (a) An order setting aside or vacating any default judgment
24 entered against the private education ~~loan~~ CREDIT borrower;

25 (b) A judgment in favor of the private education ~~loan~~ CREDIT
26 borrower;

27 (d) Restitution of all money taken from or paid by the private

1 education ~~loan~~ CREDIT borrower after a judgment was obtained by a
2 creditor;

3 (g) Correction of the private education ~~loan~~ CREDIT borrower's
4 credit report;

5 **SECTION 27.** In Colorado Revised Statutes, 5-20-114, **amend**
6 (1) introductory portion, (2) introductory portion, (2)(b), (4), and (5) as
7 follows:

8 **5-20-214. Remedies - civil actions - limitations - deceptive**
9 **trade practice.** (1) In addition to any other remedies provided by this
10 part 2 or otherwise provided by law, whenever it is proven by a
11 preponderance of the evidence that a ~~lender~~ CREDITOR or collection
12 agency has filed with a court or provided to the private education ~~loan~~
13 CREDIT borrower information required under this part 2 that is false, the
14 court shall award to the private education ~~loan~~ CREDIT borrower the
15 greater of:

16 (2) A private education ~~loan~~ CREDIT borrower or cosigner who
17 suffers damage as a result of a violation of this part 2 may bring an action
18 in a court of competent jurisdiction to recover:

19 (b) An order requiring the ~~lender~~ CREDITOR or collection agency
20 to take all actions necessary to correct the private education loan
21 borrower's credit report;

22 (4) A violation of this part 2 is a deceptive trade practice as
23 specified in section 6-1-105. A private education ~~lender~~ CREDITOR or
24 collection agency that fails to comply with any requirement imposed
25 under this part 2 with respect to a private education ~~loan~~ CREDIT borrower
26 or cosigner is liable in an amount equal to the sum of:

27 (a) Any actual damages sustained by the private education ~~loan~~

1 CREDIT borrower or cosigner as a result of the failure;

2 (b) A monetary award equal to three times the total amount the
3 private education ~~lender~~ CREDITOR or collection agency collected from
4 the private education ~~loan~~ CREDIT borrower or cosigner in violation of
5 this part 2;

6 (c) Punitive damages as the court may allow; and

7 (d) In the case of any successful action by a private education ~~loan~~
8 CREDIT borrower to enforce the liability set out in this section, the costs
9 of the action, together with reasonable attorney fees as determined by the
10 court.

11 (5) The remedies provided in this section are not the exclusive
12 remedies available to a private education ~~loan~~ CREDIT borrower or
13 cosigner.

14 **SECTION 28. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2024 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.