

166.5 **ARTICLE 9**

166.6 **COMMERCE POLICY**

166.7 Section 1. [16C.57] CONTRACTS FOR INTERNET SERVICE; ADHERENCE TO

166.8 NET NEUTRALITY.

166.9 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have

166.10 the meanings given in this subdivision.

166.11 (b) "Broadband Internet access service" means:

166.12 (1) a mass-market retail service by wire or radio that provides the capability, including

166.13 any capability that is incidental to and enables the operation of the communications service,

166.14 to transmit data to and receive data from all or substantially all Internet endpoints;

166.15 (2) any service that provides a functional equivalent of the service described in clause

166.16 (1); or

166.17 (3) any service that is used to evade the protections set forth in this section.

166.18 "Broadband Internet access service" includes service that serves end users at fixed endpoints

166.19 using stationary equipment or end users using mobile stations but does not include dial-up

166.20 Internet access service.

166.21 (c) "Edge provider" means any person or entity that provides (1) any content, application,

166.22 or service over the Internet, or (2) a device used to access any content, application, or service

166.23 over the Internet. Edge provider does not include a person or entity providing obscene

166.24 material, as defined by section 617.241.

166.25 (d) "Internet service provider" means a business that provides broadband Internet access

166.26 service to a customer in Minnesota.

166.27 (e) "Paid prioritization" means the management of an Internet service provider's network

166.28 to directly or indirectly favor some traffic over other traffic (1) in exchange for monetary

166.29 or other consideration from a third party, or (2) to benefit an affiliated entity.

167.1 Subd. 2. **Purchasing or funding broadband Internet access services; prohibitions.** A

167.2 state agency or political subdivision is prohibited from entering into a contract or providing

167.3 funding to purchase broadband Internet access service after August 1, 2019, that does not

167.4 contain:

167.5 (1) a binding agreement in which the Internet service provider certifies to the

167.6 commissioner of commerce that the Internet service provider does not engage in any of the

167.7 following activities with respect to any of its Minnesota customers:

167.8 (i) block lawful content, applications, services, or nonharmful devices, subject to

167.9 reasonable network management;

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- 167.10 (ii) impair, impede, or degrade lawful Internet traffic on the basis of Internet content,
167.11 application, or service, or use of a nonharmful device, subject to reasonable network
167.12 management;
- 167.13 (iii) engage in paid prioritization;
- 167.14 (iv) unreasonably interfere with or unreasonably disadvantage:
- 167.15 (A) a customer's ability to select, access, and use broadband Internet service or lawful
167.16 Internet content, applications, services, or devices of the customer's choice; or
- 167.17 (B) an edge provider's ability to provide lawful Internet content, applications, services,
167.18 or devices to a customer, except that an Internet service provider may block content if the
167.19 edge provider charges or intends to charge a fee to the Internet service provider for the
167.20 content; or
- 167.21 (v) engage in deceptive or misleading marketing practices that misrepresent the treatment
167.22 of Internet traffic or content; and
- 167.23 (2) provisions requiring the state agency or political subdivision, upon determining the
167.24 Internet service provider has violated the binding agreement under clause (1), to unilaterally
167.25 terminate the contract for broadband Internet access service and require the Internet service
167.26 provider to remunerate the state agency or political subdivision for all revenues earned
167.27 under the contract during the period when the violation occurred.
- 167.28 Subd. 3. **Other laws.** Nothing in this section (1) supersedes any obligation or
167.29 authorization an Internet service provider may have consistent with or as permitted by
167.30 applicable law to address the needs of emergency communications or law enforcement,
167.31 public safety, or national security authorities, or (2) limits the provider's ability to meet the
167.32 needs under clause (1).
- 168.1 Subd. 4. **Exception.** This section does not apply to a state agency or political subdivision
168.2 that purchases or funds fixed broadband Internet access services in a geographic location
168.3 where broadband Internet access services are only available from a single Internet service
168.4 provider or who is a recipient of grant funding under section 116J.395.
- 168.5 Subd. 5. **Enforcement.** A violation of the certification provided under subdivision 2
168.6 must be enforced by the commissioner of commerce. An Internet service provider who
168.7 materially or repeatedly violates this section is subject to a fine of not more than \$1,000 for
168.8 each violation. A fine authorized by this section may be imposed by the commissioner,
168.9 through a civil action brought by the commissioner under section 45.027, or by the attorney
168.10 general under section 8.31 on behalf of the state of Minnesota. Fines collected under this
168.11 subdivision must be deposited into the state treasury.

59.19 Section 1. Minnesota Statutes 2018, section 46.131, subdivision 11, is amended to read:

59.20 Subd. 11. **Financial institutions account; appropriation.** (a) The financial institutions
 59.21 account is created as a separate account in the special revenue fund. ~~The account consists~~
 59.22 ~~of funds received from assessments under subdivision 7, examination fees under subdivision~~
 59.23 ~~8, and license and renewal fees under section 216C.437, subdivision 12.~~ Earnings, including
 59.24 interest, dividends, and any other earnings arising from account assets, must be credited to
 59.25 the account.

59.26 (b) The account consists of funds received from assessments under subdivision 7,
 59.27 examination fees under subdivision 8, and funds received pursuant to subdivision 10 and
 59.28 the following provisions: sections 53B.09; 53B.11, subdivision 1; and 58A.045, subdivision
 59.29 2.

59.30 ~~(b)~~ (c) Funds in the account are annually appropriated to the commissioner of commerce
 59.31 for activities under this section.

59.32 **EFFECTIVE DATE.** This section is effective July 1, 2019.

60.1 Sec. 2. Minnesota Statutes 2018, section 46.131, is amended by adding a subdivision to
 60.2 read:

60.3 Subd. 12. **Limitations on assessments.** The sum of the assessments levied under
 60.4 subdivision 7 for a fiscal period beginning on July 1 and ending June 30 thereafter shall not
 60.5 exceed 100 percent of the sum of the assessments levied for the fiscal period beginning one
 60.6 year prior.

60.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

168.12 Sec. 2. Minnesota Statutes 2018, section 47.59, subdivision 2, is amended to read:

168.13 Subd. 2. **Application.** Extensions of credit or purchases of extensions of credit by
 168.14 financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, ~~47.60~~, 48.153,
 168.15 48.185, 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022, 334.06, and 334.061
 168.16 to 334.19 may, but need not, be made according to those sections in lieu of the authority
 168.17 set forth in this section to the extent those sections authorize the financial institution to make
 168.18 extensions of credit or purchase extensions of credit under those sections. If a financial
 168.19 institution elects to make an extension of credit or to purchase an extension of credit under
 168.20 those other sections, the extension of credit or the purchase of an extension of credit is
 168.21 subject to those sections and not this section, except this subdivision, and except as expressly
 168.22 provided in those sections. A financial institution may also charge an organization a rate of
 168.23 interest and any charges agreed to by the organization and may calculate and collect finance
 168.24 and other charges in any manner agreed to by that organization. Except for extensions of
 168.25 credit a financial institution elects to make under section 334.01, 334.011, 334.012, 334.022,
 168.26 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made
 168.27 according to this section or the sections listed in this subdivision. This subdivision does not
 168.28 authorize a financial institution to extend credit or purchase an extension of credit under
 168.29 any of the sections listed in this subdivision if the financial institution is not authorized to
 168.30 do so under those sections. A financial institution extending credit under any of the sections

168.31 listed in this subdivision shall specify in the promissory note, contract, or other loan document
168.32 the section under which the extension of credit is made.

169.1 Sec. 3. Minnesota Statutes 2018, section 47.60, subdivision 2, is amended to read:

169.2 Subd. 2. **Authorization, terms, conditions, and prohibitions.** (a) ~~In lieu of the interest,~~
169.3 ~~finance charges, or fees in any other law,~~ A consumer small loan lender may charge ~~the~~
169.4 ~~following: interest, finance charges, and fees which, when combined, cannot exceed an~~
169.5 ~~annual percentage rate, as defined in section 47.59, subdivision 1, paragraph (b), of 36~~
169.6 ~~percent.~~

169.7 ~~(1) on any amount up to and including \$50, a charge of \$5.50 may be added;~~

169.8 ~~(2) on amounts in excess of \$50, but not more than \$100, a charge may be added equal~~
169.9 ~~to ten percent of the loan proceeds plus a \$5 administrative fee;~~

169.10 ~~(3) on amounts in excess of \$100, but not more than \$250, a charge may be added equal~~
169.11 ~~to seven percent of the loan proceeds with a minimum of \$10 plus a \$5 administrative fee;~~

169.12 ~~(4) for amounts in excess of \$250 and not greater than the maximum in subdivision 1,~~
169.13 ~~paragraph (a), a charge may be added equal to six percent of the loan proceeds with a~~
169.14 ~~minimum of \$17.50 plus a \$5 administrative fee.~~

169.15 (b) The term of a loan made under this section shall be for no more than 30 calendar
169.16 days.

169.17 (c) After maturity, the contract rate must not exceed 2.75 percent per month of the
169.18 remaining loan proceeds after the maturity date calculated at a rate of 1/30 of the monthly
169.19 rate in the contract for each calendar day the balance is outstanding.

169.20 (d) No insurance charges or other charges must be permitted to be charged, collected,
169.21 or imposed on a consumer small loan except as authorized in this section.

169.22 (e) On a loan transaction in which cash is advanced in exchange for a personal check,
169.23 a return check charge may be charged as authorized by section 604.113, subdivision 2,
169.24 paragraph (a). The civil penalty provisions of section 604.113, subdivision 2, paragraph
169.25 (b), may not be demanded or assessed against the borrower.

169.26 (f) A loan made under this section must not be repaid by the proceeds of another loan
169.27 made under this section by the same lender or related interest. The proceeds from a loan
169.28 made under this section must not be applied to another loan from the same lender or related
169.29 interest. No loan to a single borrower made pursuant to this section shall be split or divided
169.30 and no single borrower shall have outstanding more than one loan with the result of collecting
169.31 a higher charge than permitted by this section or in an aggregate amount of principal exceed
169.32 at any one time the maximum of \$350.

170.1 Sec. 4. Minnesota Statutes 2018, section 47.601, subdivision 2, is amended to read:

170.2 Subd. 2. **Consumer short-term loan contract.** (a) No contract or agreement between
170.3 a consumer short-term loan lender and a borrower residing in Minnesota may contain the
170.4 following:

170.5 (1) a provision selecting a law other than Minnesota law under which the contract is
170.6 construed or enforced;

170.7 (2) a provision choosing a forum for dispute resolution other than the state of Minnesota;
170.8 or

170.9 (3) a provision limiting class actions against a consumer short-term lender for violations
170.10 of subdivision 3 or for making consumer short-term loans:

170.11 (i) without a required license issued by the commissioner; or

170.12 (ii) in which interest rates, fees, charges, or loan amounts exceed those allowable under
170.13 section ~~47.59, subdivision 6, or 47.60, subdivision 2, other than by de minimis amounts if~~
170.14 ~~no pattern or practice exists.~~

170.15 (b) Any provision prohibited by paragraph (a) is void and unenforceable.

170.16 (c) A consumer short-term loan lender must furnish a copy of the written loan contract
170.17 to each borrower. The contract and disclosures must be written in the language in which
170.18 the loan was negotiated with the borrower and must contain:

170.19 (1) the name; address, which may not be a post office box; and telephone number of the
170.20 lender making the consumer short-term loan;

170.21 (2) the name and title of the individual employee or representative who signs the contract
170.22 on behalf of the lender;

170.23 (3) an itemization of the fees and interest charges to be paid by the borrower;

170.24 (4) in bold, 24-point type, the annual percentage rate as computed under United States
170.25 Code, chapter 15, section 1606; and

170.26 (5) a description of the borrower's payment obligations under the loan.

170.27 (d) The holder or assignee of a check or other instrument evidencing an obligation of a
170.28 borrower in connection with a consumer short-term loan takes the instrument subject to all
170.29 claims by and defenses of the borrower against the consumer short-term lender.

171.1 Sec. 5. Minnesota Statutes 2018, section 47.601, subdivision 6, is amended to read:

171.2 Subd. 6. **Penalties for violation; private right of action.** (a) Except for a "bona fide
171.3 error" as set forth under United States Code, chapter 15, section 1640, subsection (c), an
171.4 individual or entity who violates subdivision 2 or 3 is liable to the borrower for:

171.5 (1) all money collected or received in connection with the loan;

171.6 (2) actual, incidental, and consequential damages;

- 171.7 (3) statutory damages of up to \$1,000 per violation;
- 171.8 (4) costs, disbursements, and reasonable attorney fees; and
- 171.9 (5) injunctive relief.
- 171.10 (b) In addition to the remedies provided in paragraph (a), a loan is void, and the borrower
- 171.11 is not obligated to pay any amounts owing if the loan is made:
- 171.12 (1) by a consumer short-term lender who has not obtained an applicable license from
- 171.13 the commissioner;
- 171.14 (2) in violation of any provision of subdivision 2 or 3; or
- 171.15 (3) in which interest, fees, charges, or loan amounts exceed the interest, fees, charges,
- 171.16 or loan amounts allowable under ~~sections 47.59, subdivision 6, and section 47.60~~, subdivision
- 171.17 2.
- 171.18 Sec. 6. Minnesota Statutes 2018, section 53.04, subdivision 3a, is amended to read:
- 171.19 Subd. 3a. **Loans.** (a) The right to make loans, secured or unsecured, at the rates and on
- 171.20 the terms and other conditions permitted under chapters 47 and 334. Loans made under this
- 171.21 authority must be in amounts in compliance with section 53.05, clause (7). A licensee making
- 171.22 a loan under this chapter secured by a lien on real estate shall comply with the requirements
- 171.23 of section 47.20, subdivision 8. A licensee making a loan that is a consumer small loan, as
- 171.24 defined in section 47.60, subdivision 1, paragraph (a), must comply with section 47.60. A
- 171.25 licensee making a loan that is a consumer short-term loan, as defined in section 47.601,
- 171.26 subdivision 1, paragraph (d), must comply with section 47.601.
- 171.27 (b) Loans made under this subdivision may be secured by real or personal property, or
- 171.28 both. If the proceeds of a loan secured by a first lien on the borrower's primary residence
- 171.29 are used to finance the purchase of the borrower's primary residence, the loan must comply
- 171.30 with the provisions of section 47.20.
- 172.1 (c) An agency or instrumentality of the United States government or a corporation
- 172.2 otherwise created by an act of the United States Congress or a lender approved or certified
- 172.3 by the secretary of housing and urban development, or approved or certified by the
- 172.4 administrator of veterans affairs, or approved or certified by the administrator of the Farmers
- 172.5 Home Administration, or approved or certified by the Federal Home Loan Mortgage
- 172.6 Corporation, or approved or certified by the Federal National Mortgage Association, that
- 172.7 engages in the business of purchasing or taking assignments of mortgage loans and undertakes
- 172.8 direct collection of payments from or enforcement of rights against borrowers arising from
- 172.9 mortgage loans, is not required to obtain a certificate of authorization under this chapter in
- 172.10 order to purchase or take assignments of mortgage loans from persons holding a certificate
- 172.11 of authorization under this chapter.
- 172.12 (d) This subdivision does not authorize an industrial loan and thrift company to make
- 172.13 loans under an overdraft checking plan.

172.14 Sec. 7. Minnesota Statutes 2018, section 56.131, subdivision 1, is amended to read:

172.15 Subdivision 1. **Interest rates and charges.** (a) On any loan in a principal amount not
172.16 exceeding \$100,000 or 15 percent of a Minnesota corporate licensee's capital stock and
172.17 surplus as defined in section 53.015, if greater, a licensee may contract for and receive
172.18 interest, finance charges, and other charges as provided in section 47.59.

172.19 ~~(b)~~ Notwithstanding paragraph (a), a licensee making a loan that is a consumer small
172.20 loan, as defined in section 47.60, subdivision 1, paragraph (a), must comply with section
172.21 47.60. A licensee making a loan that is a consumer short-term loan, as defined in section
172.22 47.601, subdivision 1, paragraph (d), must comply with section 47.601.

172.23 ~~(b)~~ (c) With respect to a loan secured by an interest in real estate, and having a maturity
172.24 of more than 60 months, the original schedule of installment payments must fully amortize
172.25 the principal and interest on the loan. The original schedule of installment payments for any
172.26 other loan secured by an interest in real estate must provide for payment amounts that are
172.27 sufficient to pay all interest scheduled to be due on the loan.

172.28 ~~(c)~~ (d) A licensee may contract for and collect a delinquency charge as provided for in
172.29 section 47.59, subdivision 6, paragraph (a), clause (4).

172.30 ~~(c)~~ (e) A licensee may grant extensions, deferments, or conversions to interest-bearing
172.31 as provided in section 47.59, subdivision 5.

173.1 Sec. 8. [58B.01] DEFINITIONS.

173.2 Subdivision 1. **Scope.** For the purposes of this chapter, the following terms have the
173.3 meanings given them.

173.4 Subd. 2. **Borrower.** "Borrower" means a resident of this state who has received or agreed
173.5 to pay a student loan, or a person who shares responsibility with a resident for repaying a
173.6 student loan.

173.7 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

173.8 Subd. 4. **Financial institution.** "Financial institution" means any of the following
173.9 organized under the laws of this state, any other state, or the United States: a bank, bank
173.10 and trust, trust company with banking powers, savings bank, savings association, or credit
173.11 union.

173.12 Subd. 5. **Person in control.** "Person in control" means any member of senior
173.13 management, including owners or officers, and other persons who directly or indirectly
173.14 possess the power to direct or cause the direction of the management policies of an applicant
173.15 or student loan servicer under this chapter, regardless of whether the person has any
173.16 ownership interest in the applicant or student loan servicer. Control is presumed to exist if
173.17 a person directly or indirectly owns, controls, or holds with power to vote ten percent or
173.18 more of the voting stock of an applicant or student loan servicer or of a person who owns,

173.19 controls, or holds with power to vote ten percent or more of the voting stock of an applicant
173.20 or student loan servicer.

173.21 Subd. 6. **Servicing.** "Servicing" means:

173.22 (1) receiving any scheduled periodic payments from a borrower or notification of
173.23 payments, and applying payments to the borrower's account pursuant to the terms of the
173.24 student loan or of the contract governing servicing of a student loan;

173.25 (2) during a period when no payment is required on a student loan, maintaining account
173.26 records for the loan and communicating with the borrower regarding the loan on behalf of
173.27 the loan's holder; and

173.28 (3) interacting with a borrower, including activities to help prevent default on obligations
173.29 arising from student loans, to facilitate the requirements in clauses (1) and (2).

173.30 Subd. 7. **Student loan.** "Student loan" means a government, commercial, or foundation
173.31 loan for actual costs paid for tuition and reasonable education and living expenses.

174.1 Subd. 8. **Student loan servicer.** "Student loan servicer" means any person, wherever
174.2 located, responsible for servicing any student loan to any borrower. Student loan servicer
174.3 includes a nonbank covered person, as defined in Code of Federal Regulations, title 12,
174.4 section 1090.101, who is responsible for servicing any student loan to any borrower.

174.5 **EFFECTIVE DATE.** This section is effective July 1, 2019.

174.6 Sec. 9. [58B.02] STUDENT LOAN ADVOCATE.

174.7 Subdivision 1. **Designation of a student loan advocate.** The commissioner must
174.8 designate a student loan advocate within the Department of Commerce to provide timely
174.9 assistance to any borrower.

174.10 Subd. 2. **Duties.** The student loan advocate must:

174.11 (1) receive, review, and attempt to resolve complaints from borrowers, including but
174.12 not limited to attempts to resolve such complaints in collaboration with institutions of higher
174.13 education, student loan servicers, and any other participants in student loan lending;

174.14 (2) compile and analyze data on borrower complaints received under clause (1);

174.15 (3) help borrowers understand the rights and responsibilities under the terms of student
174.16 loans;

174.17 (4) provide information to the public, state agencies, legislators, and relevant stakeholders
174.18 regarding the problems and concerns of borrowers;

174.19 (5) make recommendations for resolving the problems of borrowers;

174.20 (6) analyze and monitor the development and implementation of federal, state, and local
174.21 laws, regulations, and policies relating to borrowers and recommend any changes deemed
174.22 necessary;

174.23 (7) review the complete student loan history for any borrower who has provided written
174.24 consent for a review;

174.25 (8) increase public awareness that the advocate is available to help resolve the student
174.26 loan servicing concerns of potential and actual borrowers, institutions of higher education,
174.27 student loan servicers, and any other participant in student lending; and

174.28 (9) take other actions, as necessary, to fulfill the duties of the advocate set forth in this
174.29 section.

175.1 Subd. 3. **Student loan education course.** The advocate must establish and maintain a
175.2 borrower education course. The course must include educational presentations and materials
175.3 regarding important topics in student loans, including but not limited to:

175.4 (1) the meaning of important terminology used in student lending;

175.5 (2) documentation requirements;

175.6 (3) monthly payment obligations;

175.7 (4) income-based repayment options;

175.8 (5) the availability of state and federal loan forgiveness programs; and

175.9 (6) disclosure requirements.

175.10 Subd. 4. **Reporting.** By January 15 of each odd-numbered year, the advocate must report
175.11 to the legislative committees with jurisdiction over commerce and higher education. The
175.12 report must describe the advocate's implementation of this section, the outcomes achieved
175.13 by the advocate in the previous two years, and recommendations to improve the regulation
175.14 of student loan servicers.

175.15 **EFFECTIVE DATE.** This section is effective July 1, 2019.

175.16 Sec. 10. [58B.03] LICENSING OF STUDENT LOAN SERVICERS.

175.17 Subdivision 1. **License required.** A person is prohibited from directly or indirectly
175.18 acting as a student loan servicer without first obtaining a license from the commissioner.

175.19 Subd. 2. **Exempt persons.** The following persons are exempt from the requirements of
175.20 this chapter:

175.21 (1) a financial institution;

175.22 (2) a person servicing student loans made with the person's own funds, if no more than
175.23 three student loans are made in any 12-month period;

- 175.24 (3) an agency, instrumentality, or political subdivision of this state that makes, services,
175.25 or guarantees student loans;
- 175.26 (4) a person acting in a fiduciary capacity, including a trustee or receiver, as a result of
175.27 a specific order issued by a court of competent jurisdiction; or
- 175.28 (5) a person exempted by order of the commissioner.
- 176.1 Subd. 3. **Application for licensure.** (a) Any person seeking to act as a student loan
176.2 servicer in Minnesota must apply for a license in a form and manner specified by the
176.3 commissioner. At a minimum, the application must include:
- 176.4 (1) a financial statement prepared by a certified public accountant or a public accountant;
- 176.5 (2) the history of criminal convictions, excluding traffic violations, for persons in control
176.6 of the applicant;
- 176.7 (3) any information requested by the commissioner related to the history of criminal
176.8 convictions disclosed under clause (2);
- 176.9 (4) a nonrefundable license fee established by the commissioner; and
- 176.10 (5) a nonrefundable investigation fee established by the commissioner.
- 176.11 (b) The commissioner may conduct a state and national criminal history records check
176.12 of the applicant and of each person in control of or employed by the applicant.
- 176.13 Subd. 4. **Issuance of a license.** Upon receipt of a complete application for an initial
176.14 license and the payment of fees for a license and investigation, the commissioner must
176.15 investigate the financial condition and responsibility, character, financial and business
176.16 experience, and general fitness of the applicant. The commissioner may issue a license if
176.17 the commissioner finds:
- 176.18 (1) the applicant's financial condition is sound;
- 176.19 (2) the applicant's business is conducted honestly, fairly, equitably, carefully, and
176.20 efficiently within the purposes and intent of this section;
- 176.21 (3) each person in control of the applicant is in all respects properly qualified and of
176.22 good character;
- 176.23 (4) no person has, on behalf of the applicant, knowingly made any incorrect statement
176.24 of a material fact in the application, or in any report or statement made pursuant to this
176.25 section;
- 176.26 (5) no person has, on behalf of the applicant, knowingly omitted from an application,
176.27 report, or statement made pursuant to this section any information required by the
176.28 commissioner;

- 176.29 (6) the applicant has paid the fees required under this section; and
- 176.30 (7) the application has met other similar requirements, as determined by the commissioner.
- 177.1 Subd. 5. **Notification of a change in status.** An applicant or student loan servicer must
177.2 notify the commissioner in writing of any change in the information provided in the initial
177.3 license application or the most recent renewal application for a license. The notification
177.4 must be received no later than ten business days after the date an event that results in the
177.5 information becoming inaccurate occurs.
- 177.6 Subd. 6. **Term of license.** Licenses issued under this chapter expire on December 31
177.7 and are renewable on January 1.
- 177.8 Subd. 7. **Certificate of exemption.** (a) A person is exempt from the application
177.9 procedures under subdivision 3 if the commissioner determines the person is servicing
177.10 student loans in Minnesota pursuant to a contract awarded by the United States Secretary
177.11 of Education under United States Code, title 20, section 1087f. Documentation of eligibility
177.12 for this exemption must be in a form and manner determined by the commissioner.
- 177.13 (b) Upon payment of the fees under subdivision 3, a person determined eligible for the
177.14 exemption under paragraph (a) must be issued a certificate of exemption and deemed to
177.15 meet all the requirements of subdivision 4.
- 177.16 Subd. 8. **Notice.** (a) A person issued a license under subdivision 7 must provide the
177.17 commissioner with written notice no less than seven days after the date the person's contract
177.18 under United States Code, title 20, section 1087f, expires, is revoked, or is terminated.
- 177.19 (b) A person issued a license under subdivision 7 has 30 days from the date the
177.20 notification under paragraph (a) is provided to complete the requirements of subdivision 3.
177.21 If a person does not meet the requirements of subdivision 3 within this time period, the
177.22 commissioner must immediately suspend the person's license under this chapter.
- 177.23 **EFFECTIVE DATE.** This section is effective January 1, 2020.
- 177.24 Sec. 11. [58B.04] LICENSING MULTIPLE PLACES OF BUSINESS.
- 177.25 (a) A person issued a certificate of exemption or licensed to act as a student loan servicer
177.26 in Minnesota is prohibited from doing so under any other name or at any other place of
177.27 business than that named in the certificate or license. Any time a student loan servicer
177.28 changes the location of the servicer's place of business, the servicer must provide prior
177.29 written notice to the commissioner. A student loan servicer must not maintain more than
177.30 one place of business under the same certificate or license. The commissioner may issue
177.31 more than one license to the same student loan servicer, provided that the servicer complies
177.32 with the application procedures in section 58B.03 for each certificate or license.
- 177.33 (b) A certificate or license issued under this chapter is not transferable or assignable.

178.1 **EFFECTIVE DATE.** This section is effective January 1, 2020.

178.2 Sec. 12. [58B.05] LICENSE RENEWAL.

178.3 Subdivision 1. **Term.** Licenses are renewable on January 1 of each year.

178.4 Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely filed
178.5 who has not received notice of denial of renewal is considered approved for renewal. The
178.6 person may continue to act as a student loan servicer whether or not the renewed license
178.7 has been received on or before January 1 of the renewal year. An application to renew a
178.8 license is considered timely filed if received by the commissioner, or mailed with proper
178.9 postage and postmarked, by the December 15 before the renewal year. An application to
178.10 renew a license is considered properly filed if made upon forms duly executed, accompanied
178.11 by fees prescribed by this chapter, and containing any information that the commissioner
178.12 requires.

178.13 (b) A person who fails to make a timely application to renew a license and who has not
178.14 received the renewal license as of January 1 of the renewal year is unlicensed until the
178.15 renewal license has been issued by the commissioner and is received by the person.

178.16 Subd. 3. **Contents of renewal application.** An application to renew an existing license
178.17 must contain the information specified in section 58B.03, subdivision 3, except that only
178.18 the requested information having changed from the most recent prior application need be
178.19 submitted.

178.20 Subd. 4. **Cancellation.** A student loan servicer that ceases an activity or activities
178.21 regulated by this chapter and desires to no longer be licensed must inform the commissioner
178.22 in writing and, at the same time, surrender the license and all other symbols or indicia of
178.23 licensure. The licensee must include a plan to withdraw from student loan servicing, including
178.24 a timetable for the disposition of the student loans being serviced.

178.25 Subd. 5. **Renewal fees.** The following fees must be paid to the commissioner for a
178.26 renewal license:

178.27 (1) a nonrefundable renewal license fee established by the commissioner; and

178.28 (2) a nonrefundable renewal investigation fee established by the commissioner.

178.29 **EFFECTIVE DATE.** This section is effective January 1, 2020.

179.1 Sec. 13. [58B.06] DUTIES OF STUDENT LOAN SERVICERS.

179.2 Subdivision 1. **Response requirements.** Upon receiving a written communication from
179.3 a borrower, a student loan servicer must:

179.4 (1) acknowledge receipt of the communication in less than ten days from the date the
179.5 written communication was received; and

179.6 (2) provide information relating to the communication and, if applicable, the action the
179.7 student loan servicer will take to either (i) correct the borrower's issue, or (ii) explain why
179.8 the issue cannot be corrected. This information must be provided less than 30 days from
179.9 the date the written communication was received by the student loan servicer.

179.10 Subd. 2. **Overpayments.** A student loan servicer must ask a borrower in what manner
179.11 the borrower would like any overpayment on a student loan that exceeds the monthly amount
179.12 due to be applied to a student loan. A borrower's instruction regarding the application of
179.13 overpayments is effective for the term of the loan or until the borrower provides a different
179.14 instruction.

179.15 Subd. 3. **Partial payments.** A student loan servicer must apply a partial payment that
179.16 is less than the amount due on a student loan in a manner that minimizes late fees and the
179.17 negative impact on the borrower's credit history. If a borrower has multiple student loans
179.18 with the same student loan servicer, upon receipt of a partial payment the servicer must
179.19 apply the payments to satisfy as many individual loan payments as possible.

179.20 Subd. 4. **Transfer of student loan.** (a) If a borrower's student loan servicer changes
179.21 pursuant to the sale, assignment, or transfer of the servicing, the original student loan servicer
179.22 must:

179.23 (1) require the new student loan servicer to honor all benefits that were made available,
179.24 or which may have become available, to a borrower from the original student loan servicer;
179.25 and

179.26 (2) transfer to the new student loan servicer all information regarding the borrower, the
179.27 account of the borrower, and the borrower's student loan, including but not limited to the
179.28 repayment status of the student loan and the benefits described in clause (1).

179.29 (b) The student loan servicer must complete the transfer under clause (2) less than 45
179.30 days from the date the of the sale, assignment, or transfer of the servicing.

179.31 (c) A sale, assignment, or transfer of the servicing must be completed no less than seven
179.32 days from the date the next payment is due on the student loan.

180.1 (d) A new student loan servicer must adopt policies and procedures to verify that the
180.2 original student loan servicer has met the requirements of paragraph (a).

180.3 Subd. 5. **Income-driven repayment.** A student loan servicer must evaluate a borrower's
180.4 eligibility for an income-driven repayment program before placing a borrower in forbearance
180.5 or default.

180.6 Subd. 6. **Records.** A student loan servicer must maintain adequate records of each student
180.7 loan for at least two years following the final payment on the student loan, or the sale,
180.8 assignment, or transfer of the servicing.

180.9 **EFFECTIVE DATE.** This section is effective July 1, 2019, and applies to student loan
180.10 contracts executed on or after that date.

180.11 Sec. 14. [58B.07] PROHIBITED CONDUCT.

180.12 Subdivision 1. **Misleading borrowers.** A student loan servicer must not directly or
180.13 indirectly attempt to mislead a borrower.

180.14 Subd. 2. **Misrepresentation.** A student loan servicer must not (1) engage in any unfair
180.15 or deceptive practice, or (2) misrepresent or omit any material information in connection
180.16 with the servicing of a student loan, including but not limited to misrepresenting the amount,
180.17 nature, or terms of any fee or payment due or claimed to be due on a student loan, the terms
180.18 and conditions of the loan agreement, or the borrower's obligations under the loan.

180.19 Subd. 3. **Misapplication of payments.** A student loan servicer must not knowingly or
180.20 negligently misapply student loan payments.

180.21 Subd. 4. **Inaccurate information.** A student loan servicer must not knowingly or
180.22 negligently provide inaccurate information to any consumer reporting agency.

180.23 Subd. 5. **Reporting of payment history.** A student loan servicer must report both the
180.24 favorable and unfavorable payment history of the borrower to a consumer reporting agency
180.25 at least annually, if the student loan servicer regularly reports the information.

180.26 Subd. 6. **Refusal to communicate with a borrower's representative.** A student loan
180.27 servicer must not refuse to communicate with a representative of the borrower who provides
180.28 a written authorization signed by the borrower. The student loan servicer may adopt
180.29 procedures reasonably related to verifying that the representative is in fact authorized to act
180.30 on behalf of the borrower.

180.31 Subd. 7. **False statements and omissions.** A student loan servicer must not knowingly
180.32 or negligently make any false statement or omission of material fact in connection with any
181.1 application, information, or reports filed with the commissioner or any other federal, state,
181.2 or local government agency.

181.3 Subd. 8. **Noncompliance with applicable laws.** A student loan servicer must not violate
181.4 any other federal, state, or local laws, including those related to fraudulent, coercive, or
181.5 dishonest practices.

181.6 Subd. 9. **Failure to respond to advocate.** (a) A student loan servicer must respond in
181.7 less than 15 days from the date the student loan servicer receives a communication from
181.8 the student loan advocate. This response period may be reasonably shortened by the advocate
181.9 in their communication.

181.10 (b) A student loan servicer must provide a response in less than 15 days from the date
181.11 the student loan servicer receives a consumer complaint submitted to the servicer by the
181.12 student loan advocate. A student loan servicer may request from the advocate an extension

- 181.13 of up to 45 days from receipt of the consumer complaint, if the request is accompanied by
181.14 an explanation of why additional time is reasonable and necessary.
- 181.15 **EFFECTIVE DATE.** This section is effective July 1, 2019.
- 181.16 Sec. 15. [58B.08] EXAMINATIONS.
- 181.17 For the purposes of this chapter, the commissioner has the same powers with respect to
181.18 examinations of student loan servicers that the commissioner has under section 46.04.
- 181.19 **EFFECTIVE DATE.** This section is effective January 1, 2020.
- 181.20 Sec. 16. [58B.09] DENIAL, SUSPENSION, REVOCATION OF CERTIFICATES
181.21 OF EXEMPTION AND LICENSES.
- 181.22 Subdivision 1. Powers of commissioner. (a) The commissioner may by order take any
181.23 or all of the following actions:
- 181.24 (1) bar a person from engaging in student loan servicing;
181.25 (2) deny, suspend, or revoke a certificate of exemption or student loan servicer license;
181.26 (3) censure a student loan servicer;
181.27 (4) impose a civil penalty as provided in section 45.027, subdivision 6; or
181.28 (5) revoke a certificate of exemption.
- 181.29 (b) In order to take the action in paragraph (a), the commissioner must find:
- 181.30 (1) the order is in the public interest; and
182.1 (2) the student loan servicer, applicant, person in control, employee, or agent has:
- 182.2 (i) violated any provision of this chapter, or any rule or order under this chapter;
182.3 (ii) violated any applicable provision of federal law or regulation related to student loan
182.4 servicing, including but not limited to the federal Truth in Lending Act, United States Code,
182.5 title 15, sections 1601 to 1667(f);
- 182.6 (iii) violated a standard of conduct or engaged in a fraudulent, coercive, deceptive, or
182.7 dishonest act or practice, including but not limited to negligently making a false statement
182.8 or knowingly omitting a material fact, whether or not the act or practice involves student
182.9 loan servicing;
- 182.10 (iv) engaged in an act or practice that demonstrates untrustworthiness, financial
182.11 irresponsibility, or incompetence, whether or not the act or practice involves student loan
182.12 servicing;

182.13 (v) pled guilty or nolo contendere to or been convicted of a felony, gross misdemeanor,
182.14 or misdemeanor;

182.15 (vi) paid a civil penalty or been the subject of disciplinary action by the commissioner,
182.16 an order of suspension or revocation, cease and desist order, injunction order, or order
182.17 barring involvement in an industry or profession issued by the commissioner or any other
182.18 federal, state, or local government agency;

182.19 (vii) been found by a court of competent jurisdiction to have engaged in conduct
182.20 evidencing gross negligence, fraud, misrepresentation, or deceit;

182.21 (viii) refused to cooperate with an investigation or examination by the commissioner;

182.22 (ix) failed to pay any fee or assessment imposed by the commissioner; or

182.23 (x) failed to comply with state and federal tax obligations.

182.24 Subd. 2. **Orders of the commissioner.** To begin a proceeding under this section, the
182.25 commissioner must issue an order requiring the subject of the proceeding to show cause
182.26 why action should not be taken against the person under this section. The order must be
182.27 calculated to give reasonable notice of the time and place for the hearing and must state the
182.28 reasons for entry of the order. The commissioner may by order summarily suspend a license
182.29 or certificate of exemption, or summarily bar a person from engaging in student loan
182.30 servicing, pending a final determination of an order to show cause. If a license or certificate
182.31 of exemption is summarily suspended or if the person is summarily barred from any
182.32 involvement in the servicing of student loans, pending final determination of an order to
183.1 show cause, a hearing on the merits must be held within 30 days of the issuance of the order
183.2 of summary suspension or bar. All hearings must be conducted under chapter 14. After the
183.3 hearing, the commissioner must enter an order disposing of the matter as the facts require.
183.4 If the subject of the order fails to appear at a hearing after having been duly notified, the
183.5 person is considered in default and the proceeding may be determined against the subject
183.6 of the order upon consideration of the order to show cause, the allegations of which may
183.7 be considered to be true.

183.8 Subd. 3. **Actions against lapsed license.** If a license or certificate of exemption lapses,
183.9 or is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner
183.10 may institute a proceeding under this subdivision within two years after the license or
183.11 certificate of exemption was last effective and enter a revocation or suspension order as of
183.12 the last date the license or certificate of exemption was in effect, and may impose a civil
183.13 penalty as provided under this section or section 45.027, subdivision 6.

183.14 **EFFECTIVE DATE.** This section is effective January 1, 2020.

183.15 Sec. 17. [325F.6945] INTERNET SERVICE PROVIDERS; PROHIBITED ACTIONS.

183.16 Subdivision 1. **Definitions.** The definitions in section 16C.57 apply to this section.

- 183.17 Subd. 2. **Prohibited actions.** An Internet service provider is prohibited from engaging
183.18 in any of the following activities with respect to any of its Minnesota customers:
- 183.19 (1) block lawful content, applications, services, or nonharmful devices, subject to
183.20 reasonable network management;
- 183.21 (2) impair, impede, or degrade lawful Internet traffic on the basis of Internet content,
183.22 application, or service, or use of a nonharmful device, subject to reasonable network
183.23 management;
- 183.24 (3) engage in paid prioritization;
- 183.25 (4) unreasonably interfere with or unreasonably disadvantage:
- 183.26 (i) a customer's ability to select, access, and use broadband Internet service or lawful
183.27 Internet content, applications, services, or devices of the customer's choice; or
- 183.28 (ii) an edge provider's ability to provide lawful Internet content, applications, services,
183.29 or devices to a customer; or
- 183.30 (5) engage in deceptive or misleading marketing practices that misrepresent the treatment
183.31 of Internet traffic or content.
- 184.1 Subd. 3. **Certification required.** Prior to offering service to a customer in Minnesota,
184.2 or prior to August 1, 2019, for Internet service providers already offering services to
184.3 customers in Minnesota, an Internet service provider must file a document with the
184.4 commissioner of commerce certifying that it does not engage in any of the activities
184.5 prohibited under subdivision 2. The filing required by this subdivision must be provided
184.6 prior to offering services for the first time in Minnesota, at any time after a company or
184.7 entity has changed ownership or merged with another entity, or prior to offering services
184.8 in Minnesota after the company has suspended service for more than 30 days. An Internet
184.9 service provider is not otherwise required to make filings on an annual basis.
- 184.10 Subd. 4. **Other laws.** Nothing in this section (1) supersedes any obligation or
184.11 authorization an Internet service provider may have consistent with or as permitted by
184.12 applicable law to address the needs of emergency communications or law enforcement,
184.13 public safety, or national security authorities, or (2) limits the provider's ability to meet the
184.14 needs under clause (1).
- 184.15 Subd. 5. **Enforcement.** (a) A violation of subdivision 2 may be enforced by the
184.16 commissioner of commerce under section 45.027 and by the attorney general under section
184.17 8.31. The venue for enforcement proceedings is Ramsey County.
- 184.18 (b) A violation of the certification provided under subdivision 3 must be enforced under
184.19 section 609.48. The venue for enforcement proceedings is Ramsey County.