



November 18, 2016

CALIFORNIA PASSES STUDENT LOAN SERVICER LICENSE

California will require any person that engages in the business of servicing a student loan in California, directly or indirectly, to obtain a license. The newly enacted Student Loan Servicing Act ("SLSA") regulates "student loans," defined as any loan primarily for use to finance a postsecondary education and cost of attendance at a postsecondary institution, including, but not limited to, tuition, fees, books and supplies, room and board, transportation and miscellaneous personal expenses. "Student loan" includes a loan to refinance a student loan, but excludes credit under an open-end credit plan and certain real-estate secured loans. The licensing requirement reaches any person that services student loans from California or services student loans owed by borrowers located in California.

The SLSA does not apply to federally and state-chartered banks, trust companies, industrial loan companies, savings and loan association, savings banks and credit union and public and certain private postsecondary educational institutions that make student loans to borrowers.

In addition to obtaining a license, the SLSA requires licensees to, among other things:

- Respond to certain written requests from borrowers within a certain time;
- Provide free online information or links to information regarding repayment and loan forgiveness options that may be available to borrowers;
- Refrain from reporting adverse information disputed by borrowers to credit bureaus under certain circumstances;
- Ask borrowers how prepayments should be applied to student loans and follow the borrowers' directions on the application of prepayments;
- Notify the borrower of a transfer of servicing rights of a student loan if the transfer changes the identity of the party to whom the borrower sends payments and communication;
- Transfer information regarding borrowers' accounts to a new servicer within a certain time frame;
- Accurately apply payments made by a borrower to the outstanding student loan balance; and

- Retain records of servicing a student loan for a certain period of time after the student loan has been sold, assigned, transferred or paid in full.

The Department of Business Oversight will administer the SLSA and has the power to promulgate rules and regulations under the SLSA. The SLSA becomes operative on July 1, 2018. Starting January 1, 2017, the Department may take any necessary actions to exercise the authority pursuant to the SLSA to prepare for the July 2018 operative date.

California joins Connecticut as states that have recently enacted student loan servicer licenses. See ALERT dated May 11, 2016. Connecticut's student loan servicer statute became effective on July 1, 2016.

A number of states are more aggressively enforcing licensing requirements against services of all types. We have helped many clients perform state licensing analysis and apply for (or avoid) state licenses. Let us help you. ☐

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