

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0499.01 Brita Darling x2241

SENATE BILL 15-200

SENATE SPONSORSHIP

Kerr, Todd

HOUSE SPONSORSHIP

(None),

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING INCREASED CONSUMER PROTECTIONS IN STUDENT
102 LENDING FOR EDUCATION LOANS.

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://www.leg.state.co.us/billsummaries>.)

The bill prohibits a private educational lender, as defined in the bill, from offering gifts to a covered educational institution, as defined in the bill, including public and private institutions of higher education, in exchange for any advantage or consideration related to loan activities or from engaging in revenue sharing. Further, the bill prohibits persons employed at covered educational institutions from receiving anything of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

value from private educational lenders.

The bill makes it unlawful for a private educational lender to impose a fee or penalty on a borrower for early repayment or prepayment of a private education loan and requires a lender to disclose any agreements made with a card issuer or creditor for purposes of marketing a credit card.

The bill requires private educational lenders to disclose information to a potential borrower or borrower both at the time of application for a private education loan and at the time of consummation of the loan. The required disclosures are described in the bill and include, among other disclosures, the interest rate for the loan and adjustments to the rate, potential finance charges and penalties, payment options, an estimate of the total amount for repayment at the interest rate, the possibility of qualifying for federal loans, the terms and conditions of the loan, and that the borrower may cancel the loan, without penalty, within 3 business days after the date on which the loan is consummated.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 5-3-112 as
3 follows:

4 **5-3-112. Private education loans - requirements - disclosures**
5 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "COVERED EDUCATIONAL INSTITUTION" MEANS ANY
8 EDUCATIONAL INSTITUTION, INCLUDING A PUBLIC OR PRIVATE
9 INSTITUTION OF HIGHER EDUCATION, THAT OFFERS A POSTSECONDARY
10 EDUCATIONAL DEGREE, CERTIFICATE, OR PROGRAM OF STUDY, AND
11 INCLUDES AN AGENT, OFFICER, OR EMPLOYEE OF THE EDUCATIONAL
12 INSTITUTION.

13 (b) "PRIVATE EDUCATIONAL LENDER" MEANS:

14 (I) A FINANCIAL INSTITUTION THAT IS LISTED IN 12 U.S.C. SEC.
15 1813, THAT SOLICITS, MAKES, OR EXTENDS PRIVATE EDUCATION LOANS;

16 (II) A FEDERAL CREDIT UNION, AS DEFINED IN 12 U.S.C. SEC. 1752,

1 THAT SOLICITS, MAKES, OR EXTENDS PRIVATE EDUCATION LOANS; AND

2 (III) ANY OTHER PERSON ENGAGED IN THE BUSINESS OF
3 SOLICITING, MAKING, OR EXTENDING PRIVATE EDUCATION LOANS THAT IS
4 NOT A FEDERAL, STATE, OR LOCAL GOVERNMENT OR GOVERNMENTAL
5 CORPORATION OR ENTERPRISE.

6 (b) "PRIVATE EDUCATION LOAN" MEANS A LOAN PROVIDED BY A
7 PRIVATE EDUCATIONAL LENDER THAT:

8 (I) IS NOT MADE, INSURED, OR GUARANTEED UNDER 20 U.S.C. SEC.
9 1070, ET SEQ.;

10 (II) IS ISSUED EXPRESSLY FOR POSTSECONDARY EDUCATIONAL
11 EXPENSES TO A BORROWER, REGARDLESS OF WHETHER THE LOAN IS
12 PROVIDED THROUGH THE EDUCATIONAL INSTITUTION THAT THE SUBJECT
13 STUDENT ATTENDS OR DIRECTLY TO THE BORROWER FROM THE PRIVATE
14 EDUCATIONAL LENDER; AND

15 (III) DOES NOT INCLUDE AN EXTENSION OF CREDIT UNDER A
16 REVOLVING CREDIT PLAN, A REVERSE MORTGAGE TRANSACTION, A
17 RESIDENTIAL MORTGAGE TRANSACTION, OR ANY OTHER LOAN THAT IS
18 SECURED BY REAL PROPERTY OR A DWELLING.

19 (2) A PRIVATE EDUCATIONAL LENDER SHALL NOT, DIRECTLY OR
20 INDIRECTLY:

21 (a) OFFER OR PROVIDE ANY GIFT TO A COVERED EDUCATIONAL
22 INSTITUTION IN EXCHANGE FOR ANY ADVANTAGE OR CONSIDERATION
23 PROVIDED TO THE PRIVATE EDUCATIONAL LENDER RELATED TO ITS
24 PRIVATE EDUCATIONAL LOAN ACTIVITIES; OR

25 (b) ENGAGE IN REVENUE SHARING WITH A COVERED EDUCATIONAL
26 INSTITUTION.

27 (3) (a) A PERSON SHALL NOT RECEIVE ANYTHING OF VALUE FROM

1 A PRIVATE EDUCATIONAL LENDER OR GROUP OF SUCH LENDERS IF THE
2 PERSON:

3 (I) (A) IS EMPLOYED IN THE FINANCIAL AID OFFICE OF A COVERED
4 EDUCATIONAL INSTITUTION; OR

5 (B) OTHERWISE HAS RESPONSIBILITIES WITH RESPECT TO PRIVATE
6 EDUCATION LOANS OR OTHER FINANCIAL AID OF THE INSTITUTION; AND

7 (II) SERVES ON AN ADVISORY BOARD, COMMISSION, OR GROUP
8 ESTABLISHED BY A PRIVATE EDUCATIONAL LENDER OR GROUP OF SUCH
9 LENDERS.

10 (b) NOTHING IN THIS SUBSECTION (3) PROHIBITS THE
11 REIMBURSEMENT OF REASONABLE EXPENSES INCURRED BY AN EMPLOYEE
12 OF A COVERED EDUCATIONAL INSTITUTION AS PART OF THE EMPLOYEE'S
13 SERVICES ON AN ADVISORY BOARD, COMMISSION, OR GROUP DESCRIBED IN
14 THIS SUBSECTION (3).

15 (4) IT IS UNLAWFUL FOR A PRIVATE EDUCATIONAL LENDER TO
16 IMPOSE A FEE OR PENALTY ON A BORROWER FOR EARLY REPAYMENT OR
17 PREPAYMENT OF A PRIVATE EDUCATION LOAN.

18 (5) A COVERED EDUCATIONAL INSTITUTION SHALL PUBLICLY
19 DISCLOSE ANY CONTRACT OR OTHER AGREEMENT MADE WITH A CARD
20 ISSUER OR CREDITOR FOR THE PURPOSE OF MARKETING A CREDIT CARD.

21 (6) IN ANY APPLICATION FOR A PRIVATE EDUCATION LOAN, OR A
22 SOLICITATION FOR A PRIVATE EDUCATION LOAN WITHOUT REQUIRING AN
23 APPLICATION, THE PRIVATE EDUCATIONAL LENDER SHALL DISCLOSE TO
24 THE BORROWER, CLEARLY AND CONSPICUOUSLY:

25 (a) THE POTENTIAL RANGE OF RATES OF INTEREST APPLICABLE TO
26 THE PRIVATE EDUCATION LOAN;

27 (b) WHETHER THE RATE OF INTEREST APPLICABLE TO THE PRIVATE

- 1 EDUCATION LOAN IS FIXED OR VARIABLE;
- 2 (c) THE PRESENCE OR ABSENCE AND RELEVANT TERMS GOVERNING
3 INTEREST RATE ADJUSTMENTS, BOTH IN TERMS OF FREQUENCY AND
4 AMOUNT;
- 5 (d) REQUIREMENTS FOR THE CO-BORROWER, INCLUDING ANY
6 CHANGES IN THE APPLICABLE INTEREST RATES WITHOUT A CO-BORROWER;
- 7 (e) POTENTIAL FINANCE CHARGES, LATE FEES, PENALTIES, AND
8 ADJUSTMENTS TO PRINCIPAL, BASED ON DEFAULTS OR LATE PAYMENTS OF
9 THE BORROWER;
- 10 (f) FEES OR THE RANGE OF FEES APPLICABLE TO THE PRIVATE
11 EDUCATION LOAN;
- 12 (g) THE TERM OF THE PRIVATE EDUCATION LOAN;
- 13 (h) WHETHER INTEREST WILL ACCRUE WHILE THE STUDENT TO
14 WHOM THE PRIVATE EDUCATION LOAN RELATES IS ENROLLED AT A
15 COVERED EDUCATIONAL INSTITUTION;
- 16 (i) PAYMENT DEFERRAL OPTIONS;
- 17 (j) GENERAL ELIGIBILITY CRITERIA FOR THE PRIVATE EDUCATION
18 LOAN;
- 19 (k) AN EXAMPLE OF THE TOTAL COST OF THE PRIVATE EDUCATION
20 LOAN OVER THE LIFE OF THE LOAN, WHICH EXAMPLE SHALL BE
21 CALCULATED USING THE PRINCIPAL AMOUNT AND THE MAXIMUM RATE OF
22 INTEREST ACTUALLY OFFERED BY THE PRIVATE EDUCATIONAL LENDER,
23 AND CALCULATED BOTH WITH AND WITHOUT CAPITALIZATION OF
24 INTEREST, IF AN OPTION EXISTS FOR POSTPONING INTEREST PAYMENTS;
- 25 (l) THAT A COVERED EDUCATIONAL INSTITUTION MAY HAVE
26 SCHOOL-SPECIFIC EDUCATION LOAN BENEFITS AND TERMS NOT DETAILED
27 ON THE DISCLOSURE FORM;

1 (m) THAT THE BORROWER MAY QUALIFY FOR FEDERAL STUDENT
2 FINANCIAL ASSISTANCE THROUGH A PROGRAM UNDER TITLE IV OF THE
3 "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC. 1070, ET SEQ., IN LIEU
4 OF, OR IN ADDITION TO, A LOAN FROM A NONFEDERAL SOURCE;

5 (n) THE INTEREST RATES AVAILABLE WITH RESPECT TO SUCH
6 FEDERAL STUDENT FINANCIAL ASSISTANCE THROUGH A PROGRAM UNDER
7 TITLE IV OF THE "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC.
8 1070, ET SEQ.;

9 (o) THAT, AS PROVIDED IN SUBSECTION (9) OF THIS SECTION:

10 (I) THE BORROWER HAS THE RIGHT TO ACCEPT THE TERMS OF THE
11 LOAN AND CONSUMMATE THE TRANSACTION AT ANY TIME WITHIN THIRTY
12 CALENDAR DAYS, OR SUCH LONGER PERIOD AS THE PRIVATE EDUCATIONAL
13 LENDER PROVIDES, FOLLOWING THE DATE ON WHICH THE APPLICATION
14 FOR THE LOAN IS APPROVED AND THE BORROWER RECEIVES THE
15 DISCLOSURE DOCUMENTS REQUIRED FOR THE LOAN PURSUANT TO THIS
16 SUBSECTION (6); AND

17 (II) EXCEPT FOR CHANGES BASED ON ADJUSTMENTS TO THE INDEX
18 USED FOR THE LOAN, THE PRIVATE EDUCATIONAL LENDER CANNOT
19 CHANGE THE RATES AND TERMS OF THE LOAN DURING THE PERIOD
20 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (o);

21 (p) THAT THE BORROWER MAY CANCEL A PRIVATE EDUCATION
22 LOAN WITHIN THREE BUSINESS DAYS AFTER THE DATE ON WHICH THE LOAN
23 IS CONSUMMATED; AND

24 (q) THAT THE BORROWER MAY OBTAIN ADDITIONAL INFORMATION
25 CONCERNING FEDERAL STUDENT FINANCIAL ASSISTANCE FROM HIS OR HER
26 INSTITUTION OF HIGHER EDUCATION OR AT THE WEB SITE OF THE UNITED
27 STATES DEPARTMENT OF EDUCATION.

1 (7) CONTEMPORANEOUSLY WITH THE APPROVAL OF THE PRIVATE
2 EDUCATION LOAN APPLICATION, AND BEFORE THE LOAN TRANSACTION IS
3 CONSUMMATED, THE PRIVATE EDUCATIONAL LENDER SHALL DISCLOSE TO
4 THE BORROWER, CLEARLY AND CONSPICUOUSLY:

5 (a) THE APPLICABLE RATE OF INTEREST IN EFFECT ON THE DATE OF
6 APPROVAL;

7 (b) WHETHER THE RATE OF INTEREST APPLICABLE TO THE PRIVATE
8 EDUCATION LOAN IS FIXED OR VARIABLE;

9 (c) THE PRESENCE OR ABSENCE AND RELEVANT TERMS GOVERNING
10 INTEREST RATE ADJUSTMENTS, BOTH IN TERMS OF FREQUENCY AND
11 AMOUNT;

12 (d) THE INITIAL APPROVED PRINCIPAL AMOUNT;

13 (e) APPLICABLE FINANCE CHARGES, LATE FEES, PENALTIES, AND
14 ADJUSTMENTS TO PRINCIPAL, BASED ON BORROWER DEFAULTS OR LATE
15 PAYMENTS, INCLUDING LIMITATIONS ON THE DISCHARGE OF A PRIVATE
16 EDUCATION LOAN IN BANKRUPTCY;

17 (f) THE FEES OR RANGE OF FEES APPLICABLE TO THE PRIVATE
18 EDUCATION LOAN;

19 (g) THE MAXIMUM TERM UNDER THE PRIVATE EDUCATION LOAN
20 PROGRAM;

21 (h) AN ESTIMATE OF THE TOTAL AMOUNT FOR REPAYMENT, AT
22 BOTH THE INTEREST RATE IN EFFECT ON THE DATE OF APPROVAL AND AT
23 THE MAXIMUM POSSIBLE RATE OF INTEREST OFFERED BY THE PRIVATE
24 EDUCATIONAL LENDER AND APPLICABLE TO THE BORROWER, TO THE
25 EXTENT THAT SUCH MAXIMUM RATE MAY BE DETERMINED, OR IF NOT, A
26 GOOD-FAITH ESTIMATE OF THE MAXIMUM RATE;

27 (i) ANY PRINCIPAL AND INTEREST PAYMENT REQUIRED WHILE THE

1 STUDENT IS ENROLLED AT A COVERED EDUCATIONAL INSTITUTION AND
2 UNPAID INTEREST THAT WILL ACCRUE DURING SUCH ENROLLMENT;

3 (j) PAYMENT DEFERRAL OPTIONS APPLICABLE TO THE BORROWER;

4 (k) WHETHER MONTHLY PAYMENTS ARE GRADUATED;

5 (l) THAT, AS PROVIDED IN SUBSECTION (9) OF THIS SECTION:

6 (I) THE BORROWER HAS THE RIGHT TO ACCEPT THE TERMS OF THE
7 LOAN AND CONSUMMATE THE TRANSACTION AT ANY TIME WITHIN THIRTY
8 CALENDAR DAYS, OR SUCH LONGER PERIOD AS THE PRIVATE EDUCATIONAL
9 LENDER MAY PROVIDE, FOLLOWING THE DATE ON WHICH THE APPLICATION
10 FOR THE LOAN IS APPROVED AND THE BORROWER RECEIVES THE
11 DISCLOSURE DOCUMENTS REQUIRED FOR THE LOAN PURSUANT TO THIS
12 SUBSECTION (7); AND

13 (II) EXCEPT FOR CHANGES BASED ON ADJUSTMENTS TO THE INDEX
14 USED FOR THE LOAN, THE PRIVATE EDUCATIONAL LENDER CANNOT
15 CHANGE THE RATES AND TERMS OF THE LOAN DURING THE PERIOD
16 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (I);

17 (m) (I) THAT THE BORROWER MAY QUALIFY FOR FEDERAL
18 STUDENT FINANCIAL ASSISTANCE THROUGH A PROGRAM UNDER TITLE IV
19 OF THE "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC. 1070, ET SEQ.,
20 IN LIEU OF, OR IN ADDITION TO, A LOAN FROM A NONFEDERAL SOURCE;
21 AND

22 (II) THAT THE BORROWER MAY OBTAIN ADDITIONAL INFORMATION
23 CONCERNING FEDERAL STUDENT FINANCIAL ASSISTANCE FROM HIS OR HER
24 INSTITUTION OF HIGHER EDUCATION OR AT THE WEB SITE OF THE UNITED
25 STATES DEPARTMENT OF EDUCATION;

26 (n) THE INTEREST RATES AVAILABLE WITH RESPECT TO SUCH
27 FEDERAL STUDENT FINANCIAL ASSISTANCE THROUGH A PROGRAM UNDER

1 TITLE IV OF THE "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC.
2 1070, ET SEQ.;

3 (o) THE MAXIMUM MONTHLY PAYMENT, CALCULATED USING THE
4 MAXIMUM RATE OF INTEREST OFFERED BY THE PRIVATE EDUCATIONAL
5 LENDER AND APPLICABLE TO THE BORROWER, TO THE EXTENT THAT SUCH
6 MAXIMUM RATE MAY BE DETERMINED, OR IF NOT, A GOOD-FAITH
7 ESTIMATE OF THE MAXIMUM RATE; AND

8 (p) THAT THE BORROWER MAY CANCEL A PRIVATE EDUCATION
9 LOAN WITHIN THREE BUSINESS DAYS AFTER THE DATE ON WHICH THE LOAN
10 IS CONSUMMATED.

11 (8) TO THE EXTENT POSSIBLE, A PRIVATE EDUCATIONAL LENDER
12 SHALL USE MODEL FORMS H-21 AND H-23 OF THE CONSUMER FINANCIAL
13 PROTECTION BUREAU TO PROVIDE THE DISCLOSURES REQUIRED PURSUANT
14 TO THIS SECTION.

15 (9) THE BORROWER HAS THE RIGHT TO ACCEPT A PRIVATE
16 EDUCATION LOAN AND CONSUMMATE THE TRANSACTION AT ANY TIME
17 WITHIN THIRTY CALENDAR DAYS, OR SUCH LONGER PERIOD AS THE
18 PRIVATE EDUCATIONAL LENDER PROVIDES, FOLLOWING THE DATE ON
19 WHICH THE APPLICATION FOR THE LOAN IS APPROVED AND THE BORROWER
20 RECEIVES THE DISCLOSURE DOCUMENTS REQUIRED FOR THE LOAN
21 PURSUANT TO SUBSECTION (6) OF THIS SECTION, AND THE PRIVATE
22 EDUCATIONAL LENDER SHALL NOT CHANGE THE RATES AND TERMS OF THE
23 LOAN DURING THAT PERIOD. EXCEPT FOR CHANGES BASED ON
24 ADJUSTMENTS TO THE INDEX USED FOR THE LOAN, THE PRIVATE
25 EDUCATIONAL LENDER SHALL NOT CHANGE THE RATES AND TERMS OF THE
26 LOAN PRIOR TO THE EARLIER DATE OF ACCEPTANCE OF THE TERMS OF THE
27 LOAN AND CONSUMMATION OF THE LOAN BY THE BORROWER, OR THE

1 EXPIRATION OF THE PERIOD DESCRIBED IN THIS SUBSECTION (9).

2 (10) (a) A BORROWER MAY CANCEL A PRIVATE EDUCATION LOAN
3 WITHOUT PENALTY TO THE BORROWER, AT ANY TIME WITHIN THREE
4 BUSINESS DAYS AFTER THE DATE ON WHICH THE LOAN IS CONSUMMATED.

5 (b) PRIVATE EDUCATION LOAN FUNDS SHALL NOT BE DISBURSED
6 PRIOR TO THE THREE-DAY PERIOD DESCRIBED IN PARAGRAPH (a) OF THIS
7 SUBSECTION (10).

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect September 1, 2015; except that, if a referendum petition is
10 filed pursuant to section 1 (3) of article V of the state constitution against
11 this act or an item, section, or part of this act within the ninety-day period
12 after final adjournment of the general assembly, then the act, item,
13 section, or part will not take effect unless approved by the people at the
14 general election to be held in November 2016 and, in such case, will take
15 effect on the date of the official declaration of the vote thereon by the
16 governor.