

HB1519 – Engrossed

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 5. The Student Loan Servicing Rights Act is amended by changing Sections 1-5 and 25-5 and by adding Article 7 as follows:

(110 ILCS 992/1-5)

Sec. 1-5. Definitions. As used in this Act:

"Applicant" means a person applying for a license pursuant to this Act.

"Borrower" or "student loan borrower" means a person who has received or agreed to pay a student loan for his or her own educational expenses.

"Cosigner" means a person who has agreed to share responsibility for repaying a student loan with a borrower.

"Department" means the Department of Financial and Professional Regulation.

"Division of Banking" means the Division of Banking of the Department of Financial and Professional Regulation.

"Federal loan borrower eligible for referral to a repayment specialist" means a borrower who possesses any of the following characteristics:

- (1) requests information related to options to reduce or suspend his or her monthly payment;
- (2) indicates that he or she is experiencing or anticipates experiencing financial hardship, distress, or difficulty making his or her payments;
- (3) has missed 2 consecutive monthly payments;

- (4) is at least 75 days delinquent;
- (5) is enrolled in a discretionary forbearance for more than 9 of the previous 12 months;
- (6) has rehabilitated or consolidated one or more loans out of default within the past 12 months; or
- (7) has not completed a course of study, as reflected in the servicer's records, or the borrower identifies himself or herself as not having completed a program of study.

"Federal education loan" means any loan made, guaranteed, or insured under Title IV of the federal Higher Education Act of 1965.

"Income-driven payment plan certification" means the documentation related to a federal student loan borrower's income or financial status the borrower must submit to renew an income-driven repayment plan.

"Income-driven repayment options" includes the Income-Contingent Repayment Plan, the Income-Based Repayment Plan, the Income-Sensitive Repayment Plan, the Pay As You Earn Plan, the Revised Pay As You Earn Plan, and any other federal student loan repayment plan that is calculated based on a borrower's income.

"Licensee" means a person licensed pursuant to this Act.

"Other repayment plans" means the Standard Repayment Plan, the Graduated Repayment Plan, the Extended Repayment Plan, or any other federal student loan repayment plan not based on a borrower's income.

"Private loan borrower eligible for referral to a repayment specialist" means a borrower who possesses any of the following characteristics:

- (1) requests information related to options to reduce or suspend his or her monthly payments; or
- (2) indicates that he or she is experiencing or anticipates experiencing financial hardship, distress, or difficulty making his or her payments.

"Requester" means any borrower or cosigner that submits a request for assistance.

"Request for assistance" means all inquiries, complaints, account disputes, and requests for documentation a servicer receives from borrowers or cosigners.

"Secretary" means the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

"Servicing" means: (1) receiving any scheduled periodic payments from a student loan borrower or cosigner pursuant to the terms of a student loan; (2) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower or cosigner, as may be required pursuant to the terms of a student loan; and (3) performing other administrative services with respect to a student loan.

"Student loan" or "loan" means any federal education loan or other loan primarily for use to finance a postsecondary education and costs 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 made to refinance a student loan.

"Student loan" shall not include an extension of credit under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

"Student loan" shall not include an extension of credit made by a postsecondary educational institution to a borrower if one of the following apply:

- (1) The term of the extension of credit is no longer than the borrower's education program.
- (2) The remaining, unpaid principal balance of the extension of credit is less than \$1,500 at the time of the borrower's graduation or completion of the program.
- (3) The borrower fails to graduate or successfully complete his or her education program and has a balance due at the time of his or her disenrollment from the postsecondary institution.

"Student loan servicer" or "servicer" means any person engaged in the business of servicing student loans. "Student loan servicer" or "servicer" includes persons or entities acting on behalf of the State Treasurer. "Student loan servicer" includes income share agreement provider covered under Article 7 of this Act.

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"Student loan servicer" shall not include:

- (1) a bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

- (2) a wholly owned subsidiary of any bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;
- (3) an operating subsidiary where each owner of the operating subsidiary is wholly owned by the same bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;
- (4) the Illinois Student Assistance Commission and its agents when the agents are acting on the Illinois Student Assistance Commission's behalf;
- (5) a public postsecondary educational institution or a private nonprofit postsecondary educational institution servicing a student loan it extended to the borrower;
- (6) a licensed debt management service under the Debt Management Service Act, except to the extent that the organization acts as a subcontractor, affiliate, or service provider for an entity that is otherwise subject to licensure under this Act;
- (7) any collection agency licensed under the Collection Agency Act that is collecting post-default debt;
- (8) in connection with its responsibilities as a guaranty agency engaged in default aversion, a State or nonprofit private institution or organization having an agreement with the U.S. Secretary of Education under Section 428(b) of the Higher Education Act (20 U.S.C. 1078(B));
- (9) a State institution or a nonprofit private organization designated by a governmental entity to make or service student loans, provided in each case that the institution or organization services fewer than 20,000 student loan accounts of borrowers who reside in Illinois;
- (10) a law firm or licensed attorney that is collecting post-default debt; or
- (11) the State Treasurer.

(Source: P.A. 100-540, eff. 12-31-18; 100-635, eff. 12-31-18; 101-586, eff. 8-26-19.)

(110 ILCS 992/Art. 7 heading new)

ARTICLE 7. EDUCATIONAL INCOME SHARE AGREEMENTS

(110 ILCS 992/7-1 new)

Sec. 7-1. Purpose and Construction. This Article shall be construed as a consumer protection law for all purposes. This Article shall be liberally construed to effectuate its purpose.

(110 ILCS 992/7-5 new)

Sec. 7-5. Definitions. As used in this Article:

"Amount financed" means the amounts advanced by the income share agreement provider to the consumer or on behalf of the consumer or ~~the amount credited by the income share agreement provider toward~~ postsecondary educational expenses as described in the definition of "Educational Income Share Agreement."

"Annual percentage rate" or "APR" means the percentage rate calculated according to the Federal Reserve Board's methodology as set forth under Regulation Z, 12 CFR Part 1026. The "annual percentage rate" of an income share agreement is the measure of the cost of the income share agreement, expressed as a yearly rate, that relates to the amount and timing of value received by the consumer to the amount and timing of payments made. The "annual percentage rate" is determined in accordance with either the actuarial method or the United States rule method.

"Cash price" means the price that the consumer would pay for the goods or services for which the educational income share agreement proceeds are advanced in an equivalent cash transaction between the consumer and the provider of goods or services. The Cash price excludes any amounts paid by the consumer as a down payment to the income share agreement provider.

"Consumer" means a natural person who enters into an Educational Income Share Agreement for educational purposes.

"Discretionary income" is the consumer's income remaining after paying for necessary expenses and is calculated in accordance with federal rules and regulations governing income-driven repayment plans.

"Disposable earnings" means that part of the earnings of an individual remaining after the

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deduction from total earnings of amounts required by law to be withheld.

"Federal poverty guidelines" means the poverty guidelines published by the federal Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) in the Federal Register.

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"Garnishment" means any legal or equitable procedure through which earnings of an individual are required to be withheld for payment of obligations to an income share agreement provider as set forth in the Code of Civil Procedure.

"Income share agreement" or "ISA" means an agreement between a consumer and an ISA provider under which:

- (1) the ISA provider credits or advances a sum of money to the consumer or to a third party on the consumer's behalf or, if the ISA provider is a seller of goods or services to the consumer, the ISA provider credits or advances toward the purchase of such goods or services;
- (2) the consumer is obligated to make periodic payments, if any become due, to the ISA provider calculated, based upon, or determined by the consumer's income;
- (3) the consumer only incurs an obligation in each payment period if the individual's income in that period is above an income threshold specified in the ISA agreement;
- (4) there is an ISA duration after which the obligation is complete regardless of how much has been paid, as long as the consumer has paid any prior amounts due; and
- (5) each of these elements is available at the time of contracting of the income share agreement. For purposes of this definition, an income share agreement shall be treated as "credit", within the meaning of that term under 15 U.S.C. 1602(f), and as a "private education loan", within the meaning of that term under 15 U.S.C. 1650(a)(8), to the extent the proceeds of the ISA are used for postsecondary educational expenses in a manner consistent with the definition of that term.

"Income threshold" means a fixed dollar amount that is the minimum income per payment period that an ISA recipient is required to earn before the ISA recipient is required to make a payment on an income share agreement for such payment period.

"Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1967=100, compiled by the Bureau of Labor Statistics, United States Department of Labor.

"ISA duration" means the maximum time during which a consumer could remain obligated on the

income share agreement, other than periods when an income share agreement provider is attempting to collect past-due amounts and absent periods of payment relief pauses, forbearance, military service suspension, or other suspension of obligations at the request of the consumer, regardless of whether the consumer's income is greater than the minimum income.

"ISA maximum number of payments" means the maximum number of ISA payments during ISA payment periods in which the consumer's income is equal to or greater than the income threshold that a consumer could be required to make pursuant to the terms of the income share agreement. "ISA maximum number of payments" does not include periods of payment relief pause.

"ISA payment" means a calculated monthly payment in excess of \$0.00 that counts toward the maximum income-based payments under the ISA. An "ISA payment" is required only for income earned during an ISA payment period in which the consumer's income was equal to or greater than the income threshold.

"ISA payment calculation method" means the mechanism, formula, percentage, dollar figure, or other means of calculating a student's payment obligation, based on the student's income, under the terms of the income share agreement.

"ISA payment cap" means the maximum amount of money a consumer must pay to satisfy the terms of an income share agreement, which may be expressed as a dollar value, a multiple of the amount funded to the student or on the student's behalf, or as a maximum effective annual percentage rate.

"ISA payment cap" does not include charges related to default or other charges and fees that are due under the income share agreement.

"Income share agreement provider" means:

- (1) a person that provides money, payments, or credits to or on behalf of a consumer pursuant to the terms of an income share agreement; or
- (2) any other person engaged in the business of soliciting, making, funding, or extending income share agreements. This subsection does not apply to an entity that either: (A) has no direct interactions with the consumer and is not responsible for making credit decisions regarding the consumer, or (B) is the provider of the educational services to the consumer, even if these entities may qualify under subsection (1), or (C) whose role is solely limited to the marketing or advertising of the income share agreement to the consumer on behalf of a licensed income share agreement provider.

"Payment relief pause" means a period of time that is requested by the consumer during which the consumer is not required to make payments despite the consumer's income exceeding the income threshold.

**Deleted:** An income share agreement provider who is a student loan servicer as defined in the Student Loan Servicing Rights Act shall also comply with the provisions of this Article 7.¶

"Sales price" means, for an educational income share agreement, the sum of the cash price and any other amounts financed by the educational income share agreement.

(110 ILCS 992/7-7)

Sec. 7-7. Applicability. This Article 7 applies only to "Educational Income Share Agreements," which are income share agreements that:

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(1) are not made, insured, or guaranteed under Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 et seq., or another federally subsidized educational finance program; and

are not made, insured, or guaranteed under Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 et seq., or another federally subsidized educational finance program; and¶  
are extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, tuition, or other obligations of, or pays amounts to, or on behalf of, such individual for costs associated with postsecondary training program or any other program designed to increase the individual's human capital, employability, or earning potential, and is not limited to programs eligible to participate as programs under Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 et seq., as well as any personal expenses, such as books, supplies, transportation, and living costs, incurred by the individual while enrolled in such a program and any other costs or expenses included in the definition of a "qualified higher education expense" as specified in 26 U.S.C. 529(e)(3)(A), including refinancing of loans or income share agreements used for the purposes described in this paragraph, and regardless of whether the income share agreement is provided by the educational institution that the consumer attends.¶

(2) are extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, tuition, or other obligations of, or pays amounts to, or on behalf of, such individual for costs associated with postsecondary training program or any other program designed to increase the individual's human capital, employability, or earning potential, and is not limited to programs eligible to participate as programs under Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 et seq., as well as any personal expenses, such as books, supplies, transportation, and living costs, incurred by the individual while enrolled in such a program and any other costs or expenses included in the definition of a "qualified higher education expense" as specified in 26 U.S.C. 529(e)(3)(A), including refinancing of loans or income share agreements used for the purposes described in this paragraph, and regardless of whether the income share agreement is provided by the educational institution that the consumer attends.

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(110 ILCS 992/7-10 new)

Sec. 7-10. Monthly payment affordability.

(a) Maximum ISA income obligation. Each income share agreement shall specify the ISA payment calculation method applicable to the income share agreement and shall comply with the following:

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(1) An income share agreement provider shall not enter into an educational ISA with a consumer if the consumer would be committing to pay more than 10% of his or her discretionary income at any time during the ISA duration, based on information available to the income share agreement provider at the time of the projection, inclusive of any payment obligations that the income share agreement provider knows will arise in the future for other educational ISAs and education loans upon which the consumer is obligated at the time of the projection. The ISA provider must confirm a consumer's educational ISA and education loan liabilities through a verifiable third-party source. At a minimum, the income share agreement provider must confirm such liabilities using information maintained by a nationwide consumer reporting agency, as defined by 15 U.S.C. 1681a(f), and doing so is sufficient for meeting the requirement in this paragraph; however, nothing in this paragraph shall prohibit an income share agreement provider from using other sources to provide additional verification. For the purposes of calculating the portion of a student's future income that would be consumed by the educational ISA for which the student has applied and other educational ISAs and education loans known at the time, the ISA provider shall calculate the aggregate future burden of all such obligations, including the educational ISA for which the student is applying, at hypothetical future income levels ranging from the income threshold of the ISA for which the student has applied up to \$70,000, with such number adjusting for inflation each year, in increments of \$10,000. The terms of the educational ISA for which the student has applied cannot cause the student's aggregate future burden to exceed the limit in subsection (b) at any of the income increments stated in this paragraph. For the purpose of calculating the percentage burden of an educational ISA at a given future income level, the ISA provider shall use the ISA payment amount that would be applicable for the ISA at such income level. For the purpose of calculating the percentage burden of an educational loan at a given future income level, the ISA provider shall divide the annual payment obligation by income level using the most affordable payment plan or option which would yield the lowest monthly payments that would be available to the student at such income level under such loan. For students enrolled in a Title IV program, as part of this analysis the ISA provider shall assume a federal loan balance equal to the larger of (1) the student's existing federal loan balance, and (2) the aggregate maximum amount the student is eligible to borrow under Federal Direct Stafford Loans for his or her status, dependent or independent.

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(b) Protections during periods of low earnings. The income share agreement must state that when a consumer has income that is equal to or below the income threshold set forth in the

income share agreement that the consumer's payment obligation is zero dollars. The income threshold at the time of origination must be high enough such that the consumer's gross income minus any income share agreement obligation must leave the consumer with gross income equal to at least 300% of the federal poverty guidelines for a single person.

(c) Required payment relief pauses. An income share agreement must offer at least 3 months of voluntary payment relief pauses.

(110 ILCS 992/7-15 new)

Sec. 7-15. ISAs are loans for all purposes in this and all other laws and regulations of the State of Illinois, including but not limited to, the Predatory Loan Prevention Act.

(110 ILCS 992/7-20 new)

Sec. 7-20. Limits on duration of income share agreements.

(a) ISA maximum number of payments shall not exceed 120 monthly payments.

(b) The ISA duration shall not exceed 240 months, excluding any months in which a consumer has requested and received a payment relief pause.

(110 ILCS 992/7-25 new)

Sec. 7-25. Rate Cap.

(a) An income share agreement provider may not contract for income share agreement terms that would result in a consumer being required to make a stream of ISA payments for the ISA duration that would yield an effective APR greater than 7%, or the high yield of the 10-year United States Constant Maturity Treasury Notes auctioned at the final auction held before the current calendar year in which an ISA offering is made plus 6%, whichever is greater.

(b) For the purposes of determining ISA duration in this Section, an income share agreement provider shall assume the ISA duration started after a period equal to the expected length of the program for which a consumer is enrolling.

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**Deleted:** (b) An income share agreement provider may not contract for income share agreement terms that would result in a consumer having income that is less than or equal to 400% of the federal poverty guidelines for a single person for the ISA duration being required to make a stream of ISA payments that would yield an effective APR greater than 12%, or the high yield of the 10-year United States Constant Maturity Treasury Notes auctioned at the final auction held before the current calendar year in which

**Deleted:** (c) An income share agreement provider may not contract for income share agreement terms that would result in a consumer having income that is less than or equal to 500% of the federal poverty guidelines for a

**Deleted:** (d) An income share agreement provider may not contract for income share agreement terms that would result in a consumer having income that is less than or equal to 600% of the federal poverty guidelines for a

**Deleted:** (e) For the purposes of determining the various tiers set forth in this Section, an income share agreement provider shall calculate the effective APR by determining the various federal poverty guidelines tiers at the time

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(110 ILCS 992/7-30 new)

Sec. 7-30. Limits on covered income. An income share agreement must specify the definition of income to be used for the purposes of calculating a consumer's payment obligation under the income share agreement. No income share agreement shall include any of the following in its definition of income:

- (1) The income of the consumer's spouse, party to a civil union under the Illinois Religious Freedom and Civil Union Act, children or dependents.
- (2) Any amount paid by the consumer under Title II or XVI of the Social Security Act, 42 U.S.C. 401 et seq., 42 U.S.C. 1381 et seq.; or under a State program funded by Title IV of the Social Security Act, 42 U.S.C. 601 et seq.
- (3) Individual retirement account distributions.
- (4) Pensions and annuities.
- (5) Social security benefits.
- (6) Any sources of government aid provided to individuals, including but not limited to:
  - (A) unemployment programs;
  - (B) disaster relief programs;
  - (C) Medicare or Medicaid benefits;
  - (D) benefits received through the Supplemental Nutrition Assistance Program;
  - (E) economic impact payments;
  - (F) the earned income tax credit or child tax credit;
  - (G) other income excluded from the definition of taxable income set forth by the Internal Revenue Service; or
  - (H) passive income that is not derived as a result of a consumer's active participation in any trade or business.

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(110 ILCS 992/7-35 new)

Sec. 7-35. Fees permitted. In addition to the ISA obligation permitted by this Act, an income share agreement provider may contract for and receive the following additional charges:

- (1) government fees and taxes;
- (2) a fee, which shall not exceed the sum of \$25, for failure to provide documentation to the income share agreement provider for the confirmation and reconciliation of the consumer's income within 30 days of the date on which such documentation is due as reflected in written notice to the consumer;
- (3) a fee for processing any forms to confirm the consumer's income with the United States Internal Revenue Service or a State department of revenue or taxation on a dollar-for-dollar, pass-through basis of the expenses incurred by the income share agreement provider;
- (4) a late payment fee in an amount of \$15, or 5% of the late payment, whichever is less, for any payment that is more than 15 days past due; no late payment fee may be charged more than once per late payment;
- (5) an amount not exceeding \$25, plus any actual expenses incurred in connection with a check or draft that is not honored because of insufficient or uncollected funds or because no such account exists;
- (6) other fees authorized by the Secretary. In determining whether to authorize a charge, the Secretary shall consider whether the charge benefits the consumer and is reasonable;
- (7) before or after default in payment of a scheduled payment of an income share agreement, the parties to the income share agreement may agree in writing to a deferral of all or part of one or more unpaid payments and the income share agreement provider may make, at the time of deferral and receive at that time or at any time thereafter, a deferral charge not exceeding an amount equal to 5% of the missed payment. Provided this subsection shall not apply to voluntary payment relief pauses.

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(110 ILCS 992/7-40 new)

Sec. 7-40. Restriction on security interest. Under no circumstances shall an income share agreement provider take a security interest in any collateral in connection with an income share

agreement.

(110 ILCS 992/7-45 new)

Sec. 7-45. Discharge of obligations.

(a) All obligations under an income share agreement, shall terminate if the consumer is deemed totally and permanently disabled by the applicable governmental agency.

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(b) All obligations under the income share agreement shall terminate upon the death of the consumer.

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(110 ILCS 992/7-50 new)

Sec. 7-50. Prohibition on co-signers. No income share agreement shall include or permit the use of a co-signer in connection with any obligation related to an income share agreement.

(110 ILCS 992/7-55 new)

Sec. 7-55. Limitation on acceleration.

(a) Income share agreement providers shall not attempt to accelerate or otherwise liquidate a future payment stream under an income share agreement.

(b) Notwithstanding subsection (a), nothing in this Section shall prevent an income share agreement provider from collecting or pursuing any other remedy available to the income share agreement provider for the collection of amounts that were due from the consumer under an income share agreement that were not paid or properly remitted to the income share agreement provider. Nothing in this Section shall prevent an income share agreement provider from calculating a projected future income for a consumer and calculating a consumer's payment obligation using that projection if the consumer does not provide contractually obligated documentation of income.

(c) Notwithstanding subsection (a), an income share agreement may contain a provision that allows a consumer to terminate his or her income share agreement before the events terminating further obligations under the income share agreement. The early termination mechanisms, such as total caps on payments due to the income share agreement provider or

other rights to partially or fully terminate further obligations under the income share agreement, must be optional to the consumer and within the consumer's control.

**Deleted:** In such circumstances, such mechanisms will not be deemed a form of acceleration, early termination penalty, or prepayment penalty

(110 ILCS 992/7-60 new)

Sec. 7-60. No assignment of wages.

(a) An income share agreement provider may not take an assignment of earnings of the consumer for payment or as security for payment of a debt arising out of an income share agreement. An assignment of earnings in violation of this Section is unenforceable by the assignee of the earnings and revocable by the consumer.

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(b) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to the seller secured by an assignment of earnings.

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(110 ILCS 992/7-65 new)

Sec. 7-65. Limitations on garnishment. Before entry of judgment in an action against a consumer for a payment arising from an income share agreement, a licensee may not attach unpaid earnings of the consumer by garnishment or like proceedings.

(110 ILCS 992/7-70 new)

Sec. 7-70. Use of multiple agreements. An income share agreement provider shall not use multiple agreements with respect to a single income share agreement with intent to violate any limitations of this Act.

(110 ILCS 992/7-75 new)

Sec. 7-75. Required disclosures.

(a) An income share agreement provider shall disclose the following information to each consumer, clearly and conspicuously, in a form that the consumer can keep at the time the transaction is consummated:

- (1) The date of the income share agreement.
- (2) The dollar amount of the amount financed.
- (3) The sales price of the transaction if different from the amount financed;
- (4) The ISA payment calculation method. Any percentages used in the ISA payment calculation method shall be rounded to the nearest one-hundredth of 1% if the percentage is not a whole number.
- (5) The maximum number of payments expressed as a whole number.
- (6) The maximum duration expressed as a whole number of the period of time.
- (7) The income threshold expressed as a dollar amount and a statement that payments will only be required during periods when the consumer's income is equal to or exceeds the income threshold.
- (8) An itemization of the amount financed; if the ISA provider is a seller of goods or services, then the amount of any down payment and any additional fees or costs shall be itemized.
- (9) The definition of income to be used for the purposes of calculating the consumer's obligations under the income share agreement.
- (10) A description of the terms under which the obligations of the consumer under the income share agreement will be extinguished before the full ISA duration.
- (11) A payment schedule that shows the date on which the first payment will be due and reflecting each date thereafter during the ISA duration that a payment may be due.
- (12) An itemization of any permissible fees associated with the ISA.
- (13) A description of the methods used by the ISA provider to engage in a process of reconciliation and verification to determine if the consumer's payments are more than, equal to, or less than the payments owed by the consumer under his or her income share agreement; this description shall include the following:
  - (i) a description of the frequency or triggers for the commencement of the income verification process;
  - (ii) a description of the requirements and timing of the process in which the consumer must participate in order for the ISA provider to verify the consumer's income; and

(iii) a description of any records or forms, including tax records, that the consumer may be required to execute or submit.

(14) The name and address of the ISA provider.

(15) A table displaying the dollar amounts of each payment, the number of payments, the effective annual percentage rate, and the total of all payments that a consumer would be required to pay under the income share agreement at a range of annual income levels based on the ISA duration. The comparison table shall include a statement that "This comparison table is for illustrative purposes only and may not reflect the amounts that you are likely to pay under this income share agreement. This table assumes you have the same income over the entire term of your income share agreement. It does not take into account changes in income. Your income will likely change over time. This table does not represent the income or range of incomes that you are likely to earn in the future." In computing the APR, the ISA provider shall use the amount financed and may assume that the income share agreement will be disbursed in the amount and with the disbursement schedule that it reasonably expects to follow for such income share agreement and that payments would commence on the date set forth in the income share agreement. The income used in this disclosure shall include, at minimum, the obligations at the following incomes:

- (i) no income;
- (ii) income equal to the annual equivalent of the income threshold;
- (iii) various income scenarios with at least calculations at annual incomes of \$40,000, \$60,000, \$80,000, \$100,000, \$125,000, \$150,000, \$175,000, and \$200,000; and
- (iv) if known by the ISA provider, the consumer's current income.

(16) A statement that the income share agreement is not a fixed payment installment loan and that the amount the consumer will be required to pay under the income share agreement:

- (i) may be more or less than the amount financed by the ISA provider; and
- (ii) will vary in proportion with the consumer's income.

(17) A statement that if the consumer files for bankruptcy, the consumer may still be required to pay back the loan.

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(b) The disclosures required by this Section shall be grouped together and segregated from all other information.



(c) The disclosures required by this Section may be provided to a consumer in electronic form, subject to compliance with the consumer's consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., and applicable State law.

(d) If model documents are established pursuant to any federal law covering income share agreements, compliance with those forms shall be considered compliance with this Act with respect to the disclosure requirements contained in this Act.

(110 ILCS 992/7-80 new)

Sec. 7-80. Early completion/No prepayment penalties. A consumer may, extinguish his or her obligations under the income share Agreement by paying the total of all payments due under the payment schedule in effect 30 days prior to the payment minus any unearned finance charge. The unearned finance charge shall be calculated based on a method that is at least as favorable to the consumer as the actuarial method, as defined by the federal Truth in Lending Act. The sum of the digits or rule of 78ths method of calculating prepaid interest is prohibited.

(110 ILCS 992/7-85 new)

Sec. 7-85. Assumption of increase in future income.

(a) If a consumer fails to provide income documentation as reasonably required by an income share agreement, an income share agreement provider may assign an amount of income to the consumer and compute the consumer's monthly payment amount by any of the following methods, to the extent disclosed in the income share agreement:

- (1) assigning an income amount obtained from a reasonably reliable third party or a credit reporting agency;
- (2) if the consumer previously provided income documentation or has had an income assigned in the prior 12-month period that has increased by an amount not to exceed 10%, but such increase may not be applied more than once per 12-month period;
- (3) contacting the consumer's employer, or any person or entity reasonably believed to represent the consumer's employer, to obtain, verify, or update the consumer's income information;
- (4) contacting the Department of Revenue or the Internal Revenue Service to obtain the

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most recent information available about the student's income; or

(5) assigning a reasonable qualified income based on the incomes of:

- (A) the nearest reasonably relevant quantile of income for individuals working in the profession for which the consumer's educational program was intended to prepare the participant, as determined by information published by the Bureau of Labor Statistics or other reasonably reliable publicly available data sources; or
- (B) the nearest reasonably relevant quantile of income of consumers who attended the same or a reasonably comparable covered educational program or course of study, as determined by information published by the Bureau of Labor Statistics or other reasonably reliable publicly available data sources.

**Deleted:** for income share agreement providers providing educational income share agreements.

(b) If an income share agreement provider assigns an income to a consumer's income share agreement, then it shall notify the consumer in the monthly billing statement, and in each billing statement thereafter while the assigned income remains applicable to the consumer's income share agreement, that income has been assigned and of the consumer's rights under this Section.

(c) If the consumer does provide income information as reasonably required by the income share agreement within one year of the date on which the income share agreement provider notified the consumer that assigned income will be applied to the income share agreement, then, within 15 days after the income share agreement provider's receipt of such information, the income share agreement provider shall update each prior instance in which assigned income was applied using the income information provided by the consumer; if the consumer provides income information more than one year after the income share agreement provider first assigned income to the consumer's income share agreement, then the income share agreement provider may, but is not obligated to, update each prior instance in which assigned income was applied using the income information provided by the consumer.

(d) An income share agreement provider that assigns income to an income share agreement shall retain all applicable records relating to the method and data sources used to make such estimation for 3 years after the end of that income share agreement.

(110 ILCS 992/7-90 new)

Sec. 7-90. Receipts; statements of account; evidence of payment.

(a) The income share agreement provider shall deliver or mail to the consumer, without request,

a written receipt for each payment made pursuant to an income share agreement. A periodic statement showing a payment received by mail complies with this subsection.

(b) Upon written request of a consumer, the income share agreement provider shall provide a written statement of the dates and amounts of payments made within the 12 months preceding the month in which the request is received. The statement shall be provided without charge once during each year of the term of the obligation. If additional statements are requested, the income share agreement provider may charge an amount not to exceed \$5.00 for each additional statement.

(c) After a consumer has fulfilled all obligations with respect to an income share agreement, the income share agreement provider, upon request of the consumer, shall deliver or mail to the consumer written evidence acknowledging termination of all obligations with respect to the income share agreement.

(110 ILCS 992/7-95 new)

Sec. 7-95. Adjustment of dollar amounts.

(a) From time to time the dollar amounts in this Act designated as subject to change shall change, as provided in this Section, according to and to the extent of changes in the index.

(b) The index for December of the year preceding the year in which this Act becomes effective is the reference base index.

(c) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index and the end of the preceding year and the reference base index is 10% or more, but:

- (1) the portion of the percentage change in the index in excess of a multiple of 10% shall be disregarded and the dollar amounts shall change only in multiples of 10% of the amounts provided in this Act on the date of enactment; and
- (2) the dollar amounts shall not change if the amounts required by this Section are those currently in effect pursuant to this Act as a result of earlier application of this Section.

(d) If the index is revised, the percentage of change pursuant to this Section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the Bureau of Labor Statistics. If the index is

superseded, the index referred to in this Section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(e) The Department shall adopt a rule setting forth, on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by this Section. As soon as practical after the changes occur, the Department shall adopt a rule setting forth the changes in the index required by subsection (d), including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(f) A person does not violate this Act with respect to a transaction otherwise complying with this Act if he or she relies on dollar amounts either determined according to subsection (c) or appearing in the last rule of the Department announcing the then-current dollar amounts.

(110 ILCS 992/7-100 new)

Sec. 7-100. Construction against implicit authority. This Act is a general Act intended as a unified coverage of its subject matter; no part of this Act shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

(110 ILCS 992/7-105 new)

Sec. 7-105. Application of other Acts. Income share agreements and income share agreement providers are subject to other Articles of this Act, the Know Before You Owe Private Education Loan Act, and the Predatory Loan Prevention Act and shall comply with their requirements and any rules adopted by the Department of Financial and Professional Regulation pursuant to those Acts. Nothing herein is intended to imply that an education ISA: (i) is not a credit transaction or (ii) that, upon an obligation accruing, does not create a debt.

(110 ILCS 992/25-5)

Sec. 25-5. Enforcement; Consumer Fraud and Deceptive Business Practices Act. The Attorney General may enforce a violation of Article 5 or 7 of this Act as an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act.

(Source: P.A. 100-540, eff. 12-31-18.)

Section 10. The Consumer Installment Loan Act is amended by changing Section 1 as follows:

(205 ILCS 670/1) (from Ch. 17, par. 5401)

Sec. 1. License required to engage in business. No person, partnership, association, limited liability company, or corporation shall engage in the business of making loans of money and charge, contract for, or receive on any such loan a greater annual percentage rate than 9% except as authorized by this Act after first obtaining a license from the Director of Financial Institutions (hereinafter called the Director). No licensee, or employee or affiliate thereof, that is licensed under the Payday Loan Reform Act shall obtain a license under this Act except that a licensee under the Payday Loan Reform Act may obtain a license under this Act for the exclusive purpose and use of making title-secured loans, as defined in subsection (a) of Section 15 of this Act and governed by Title 38, Section 110.300 of the Illinois Administrative Code. For the purpose of this Section, "affiliate" means any person or entity that directly or indirectly controls, is controlled by, or shares control with another person or entity. A person or entity has control over another if the person or entity has an ownership interest of 25% or more in the other. A person or entity licensed as an Educational Income Share Agreement provider is exempt from the requirements of this Act to the extent of their operation as an Educational Income Share Agreement provider under Article 7 of the Student Loan Servicing Rights Act. In addition, Educational Income Share Agreements as provided under Article 7 of the Student Loan Servicing Rights Act are not subject to the requirements of this Act.

In this Act, "Director" means the Director of Financial Institutions of the Department of Financial and Professional Regulation.

(Source: P.A. 101-658, eff. 3-23-21.)

Section 15. The Interest Act is amended by changing Section 4 as follows:

(815 ILCS 205/4) (from Ch. 17, par. 6404)

Sec. 4. General interest rate.

- (1) Except as otherwise provided in Section 4.05, in all written contracts it shall be

lawful for the parties to stipulate or agree that an annual percentage rate of 9%, or any less sum, shall be taken and paid upon every \$100 of money loaned or in any manner due and owing from any person to any other person or corporation in this state, and after that rate for a greater or less sum, or for a longer or shorter time, except as herein provided.

The maximum rate of interest that may lawfully be contracted for is determined by the law applicable thereto at the time the contract is made. Any provision in any contract, whether made before or after July 1, 1969, which provides for or purports to authorize, contingent upon a change in the Illinois law after the contract is made, any rate of interest greater than the maximum lawful rate at the time the contract is made, is void.

It is lawful for a state bank or a branch of an out-of-state bank, as those terms are defined in Section 2 of the Illinois Banking Act, to receive or to contract to receive and collect interest and charges at any rate or rates agreed upon by the bank or branch and the borrower. It is lawful for a savings bank chartered under the Savings Bank Act or a savings association chartered under the Illinois Savings and Loan Act of 1985 to receive or contract to receive and collect interest and charges at any rate agreed upon by the savings bank or savings association and the borrower.

It is lawful to receive or to contract to receive and collect interest and charges as authorized by this Act and as authorized by the Consumer Installment Loan Act, the Payday Loan Reform Act, the Retail Installment Sales Act, the Illinois Financial Services Development Act, the Motor Vehicle Retail Installment Sales Act, ~~or the Consumer Legal Funding Act~~, or the Student Loan Servicing Rights Act. It is lawful to charge, contract for, and receive any rate or amount of interest or compensation, except as otherwise provided in the Predatory Loan Prevention Act, with respect to the following transactions:

- (a) Any loan made to a corporation;
- (b) Advances of money, repayable on demand, to an amount not less than \$5,000, which are made upon warehouse receipts, bills of lading, certificates of stock, certificates of deposit, bills of exchange, bonds or other negotiable instruments pledged as collateral security for such repayment, if evidenced by a writing;
- (c) Any credit transaction between a merchandise wholesaler and retailer; any business loan to a business association or copartnership or to a person owning and operating a business as sole proprietor or to any persons owning and operating a business as joint venturers, joint tenants or tenants in

common, or to any limited partnership, or to any trustee owning and operating a business or whose beneficiaries own and operate a business, except that any loan which is secured (1) by an assignment of an individual obligor's salary, wages, commissions or other compensation for services, or (2) by his household furniture or other goods used for his personal, family or household purposes shall be deemed not to be a loan within the meaning of this subsection; and provided further that a loan which otherwise qualifies as a business loan within the meaning of this subsection shall not be deemed as not so qualifying because of the inclusion, with other security consisting of business assets of any such obligor, of real estate occupied by an individual obligor solely as his residence. The term "business" shall be deemed to mean a commercial, agricultural or industrial enterprise which is carried on for the purpose of investment or profit, but shall not be deemed to mean the ownership or maintenance of real estate occupied by an individual obligor solely as his residence;

- (d) Any loan made in accordance with the provisions of Subchapter I of Chapter 13 of Title 12 of the United States Code, which is designated as "Housing Renovation and Modernization";
- (e) Any mortgage loan insured or upon which a commitment to insure has been issued under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code;
- (f) Any mortgage loan guaranteed or upon which a commitment to guaranty has been issued under the provisions of the Veterans' Benefits Act, Subchapter II of Chapter 37 of Title 38 of the United States Code;
- (g) Interest charged by a broker or dealer registered under the Securities Exchange Act of 1934, as amended, or registered under the Illinois Securities Law of 1953, approved July 13, 1953, as now or hereafter amended, on a debit balance in an account for a customer if such debit balance is payable at will without penalty and is secured by securities as defined in Uniform Commercial Code-Investment Securities;
- (h) Any loan made by a participating bank as part of any loan guarantee program which provides for loans and for the refinancing of such loans to medical students, interns and residents and which are guaranteed by the American Medical Association Education and Research Foundation;
- (i) Any loan made, guaranteed, or insured in accordance with the provisions

- of the Housing Act of 1949, Subchapter III of Chapter 8A of Title 42 of the United States Code and the Consolidated Farm and Rural Development Act, Subchapters I, II, and III of Chapter 50 of Title 7 of the United States Code;
- (j) Any loan by an employee pension benefit plan, as defined in Section 3 (2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an individual participating in such plan, provided that such loan satisfies the prohibited transaction exemption requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108(b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d) (1)) of the Employee Retirement Income Security Act of 1974;
  - (k) Written contracts, agreements or bonds for deed providing for installment purchase of real estate, including a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code that is real property as defined in the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act;
  - (l) Loans secured by a mortgage on real estate, including a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code that is real property as defined in the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act;
  - (m) Loans made by a sole proprietorship, partnership, or corporation to an employee or to a person who has been offered employment by such sole proprietorship, partnership, or corporation made for the sole purpose of transferring an employee or person who has been offered employment to another office maintained and operated by the same sole proprietorship, partnership, or corporation;
  - (n) Loans to or for the benefit of students made by an institution of higher education.
- (2) Except for loans described in subparagraph (a), (c), (d), (e), (f) or (i) of subsection (1) of this Section, and except to the extent permitted by the applicable statute for loans made pursuant to Section 4a or pursuant to the Consumer Installment Loan Act:
- (a) Whenever the rate of interest exceeds an annual percentage rate of 8% on any written contract, agreement or bond for deed providing for the installment purchase of residential real estate, or on any loan secured by a mortgage on residential real estate, it shall be unlawful to provide for a prepayment penalty or other charge for prepayment.



- (b) No agreement, note or other instrument evidencing a loan secured by a mortgage on residential real estate, or written contract, agreement or bond for deed providing for the installment purchase of residential real estate, may provide for any change in the contract rate of interest during the term thereof. However, if the Congress of the United States or any federal agency authorizes any class of lender to enter, within limitations, into mortgage contracts or written contracts, agreements or bonds for deed in which the rate of interest may be changed during the term of the contract, any person, firm, corporation or other entity not otherwise prohibited from entering into mortgage contracts or written contracts, agreements or bonds for deed in Illinois may enter into mortgage contracts or written contracts, agreements or bonds for deed in which the rate of interest may be changed during the term of the contract, within the same limitations.
- (3) In any contract or loan which is secured by a mortgage, deed of trust, or conveyance in the nature of a mortgage, on residential real estate, the interest which is computed, calculated, charged, or collected pursuant to such contract or loan, or pursuant to any regulation or rule promulgated pursuant to this Act, may not be computed, calculated, charged or collected for any period of time occurring after the date on which the total indebtedness, with the exception of late payment penalties, is paid in full.
- (4) For purposes of this Section, a prepayment shall mean the payment of the total indebtedness, with the exception of late payment penalties if incurred or charged, on any date before the date specified in the contract or loan agreement on which the total indebtedness shall be paid in full, or before the date on which all payments, if timely made, shall have been made. In the event of a prepayment of the indebtedness which is made on a date after the date on which interest on the indebtedness was last computed, calculated, charged, or collected but before the next date on which interest on the indebtedness was to be calculated, computed, charged, or collected, the lender may calculate, charge and collect interest on the indebtedness for the period which elapsed between the date on which the prepayment is made and the date on which interest on the indebtedness was last computed, calculated, charged or collected at a rate equal to 1/360 of the annual rate for each day which so elapsed, which rate shall be applied to the indebtedness outstanding as of the date of prepayment. The lender shall refund to the borrower any interest charged or collected which exceeds that which the lender may charge or collect pursuant to the preceding sentence. The provisions of this amendatory Act of 1985 shall apply only to contracts or loans entered into on or after the effective

date of this amendatory Act, but shall not apply to contracts or loans entered into on or after that date that are subject to Section 4a of this Act, the Consumer Installment Loan Act, the Payday Loan Reform Act, the Predatory Loan Prevention Act, or the Retail Installment Sales Act, or that provide for the refund of precomputed interest on prepayment in the manner provided by such Act.

- (5) For purposes of items (a) and (c) of subsection (1) of this Section, a rate or amount of interest may be lawfully computed when applying the ratio of the annual interest rate over a year based on 360 days. The provisions of this amendatory Act of the 96th General Assembly are declarative of existing law.
- (6) For purposes of this Section, "real estate" and "real property" include a manufactured home, as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code that is real property as defined in the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act.

(Source: P.A. 101-658, eff. 3-23-21; 102-987, eff. 5-27-22.)

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.

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