



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2971/1
ARG:cdc

2021 ASSEMBLY BILL 711

November 12, 2021 - Introduced by Representatives HESSELBEIN, DRAKE, EMERSON, S. RODRIGUEZ, SHELTON, CONLEY, ANDRACA, VRUWINK, SPREITZER, NEUBAUER, HEBL, OHNSTAD, MILROY, CABRERA, BOWEN, CONSIDINE, STUBBS, SHANKLAND, SUBECK, HONG, BALDEH, L. MYERS and POPE, cosponsored by Senators SMITH, ERPENBACH, ROYS, WIRCH, AGARD, RINGHAND, LARSON, JOHNSON and CARPENTER. Referred to Committee on Financial Institutions.

1 **AN ACT to amend** 15.01 (6) and 15.02 (3) (c) 1.; and **to create** 15.185 (6) and
2 subchapter V of chapter 224 [precedes 224.101] of the statutes; **relating to:**
3 student loans for postsecondary education, requirements related to student
4 loan servicers, creating an office of the student loan ombudsman in the
5 Department of Financial Institutions, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates an Office of the Student Loan Ombudsman (office) in the Department of Financial Institutions and requires student loan servicers to be licensed by this office. The bill contains a variety of provisions governing student education loans, student loan borrowers, and student loan servicers. Under the bill, a “student education loan” means a loan that is extended to a student loan borrower expressly for postsecondary education expenses or related expenses. A “student loan borrower” means a resident of this state who has received or agreed to pay a student education loan or a person who shares legal responsibility for repaying the loan. A “student loan servicer” means a person responsible for the servicing of a student education loan, but excludes certain state-regulated financial service providers. “Servicing” means receiving scheduled periodic payments from a student loan borrower; applying payments received from a student loan borrower; and performing other administrative services with respect to a student education loan.

The bill requires a student loan servicer, wherever located, to be licensed by the office before directly or indirectly engaging in servicing student education loans in

ASSEMBLY BILL 711

this state. A student loan servicer must hold a separate license for each of its places of business and the student loan servicer may not act under any name or at any place of business that is not identified in the license.

The bill imposes numerous requirements on student loan servicers, including requirements relating to all of the following:

1. Responding to written inquiries from student loan borrowers.
2. Handling and applying “nonconforming payments,” defined as payments on student education loans that are different from the required payments.
3. Responsibilities if there is a sale, assignment, or other transfer of the servicing of a student education loan.
4. Maintaining and making available to the office records related to student education loan transactions.

The bill also prohibits a student loan servicer from engaging in certain conduct or activity, including the following:

1. Defrauding or misleading a student loan borrower.
2. Engaging in an unfair or deceptive practice or misrepresenting or omitting material information in connection with the servicing of a student education loan.
3. Misapplying student education loan payments.
4. Providing inaccurate information to a credit bureau related to a student loan borrower’s creditworthiness.
5. Refusing to communicate with an authorized representative of a student loan borrower.
6. Failing to evaluate a student loan borrower for an income-based repayment program prior to placing the student loan borrower in default.

The bill also specifies the authority of the office to conduct investigations and examinations and take administrative action and also provides a private right of action for violations of the requirements or prohibitions under the bill.

The bill requires the office to perform certain functions, including: 1) assisting student loan borrowers; 2) receiving and attempting to resolve complaints from student loan borrowers and others; 3) compiling and analyzing data about these complaints; 4) assisting student loan borrowers in various ways; 5) providing information to the public and others regarding the problems and concerns of student loan borrowers; and 6) analyzing and monitoring the development and implementation of laws and policies relating to student loan borrowers.

Although the bill exempts certain state-regulated financial service providers, primarily state-chartered financial institutions, from licensing and most other requirements applicable to student loan servicers, the bill requires these exempt organizations to cooperate with the office and provide information requested by the office necessary to investigate and resolve student loan borrower complaints.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 711

1 **SECTION 1.** 15.01 (6) of the statutes is amended to read:

2 15.01 (6) “Division,” “bureau,” “section,” and “unit” means the subunits of a
3 department or an independent agency, whether specifically created by law or created
4 by the head of the department or the independent agency for the more economic and
5 efficient administration and operation of the programs assigned to the department
6 or independent agency. The office of credit unions and the office of the student loan
7 ombudsman in the department of financial institutions, the office of the inspector
8 general in the department of children and families, the office of the inspector general
9 in the department of health services, and the office of children’s mental health in the
10 department of health services have the meaning of “division” under this subsection.
11 The office of the long-term care ombudsman under the board on aging and long-term
12 care and the office of educational accountability in the department of public
13 instruction have the meaning of “bureau” under this subsection.

14 **SECTION 2.** 15.02 (3) (c) 1. of the statutes is amended to read:

15 15.02 (3) (c) 1. The principal subunit of the department is the “division”. Each
16 division shall be headed by an “administrator”. The office of credit unions and the
17 office of the student loan ombudsman in the department of financial institutions and
18 the office of children’s mental health in the department of health services have the
19 meaning of “division” and the director of credit unions in the department of financial
20 institutions and the director of the office of children’s mental health in the
21 department of health services have the meaning of “administrator” under this
22 subdivision.

23 **SECTION 3.** 15.185 (6) of the statutes is created to read:

24 15.185 (6) OFFICE OF THE STUDENT LOAN OMBUDSMAN. There is created in the
25 department of financial institutions an office of the student loan ombudsman.

ASSEMBLY BILL 711

SECTION 4

1 **SECTION 4.** Subchapter V of chapter 224 [precedes 224.101] of the statutes is
2 created to read:

3 **CHAPTER 224**

4 SUBCHAPTER V

5 STUDENT LOANS

6 **224.101 Definitions.** In this subchapter:

7 **(1)** “Board” means the higher educational aids board.

8 **(2)** “Exempt organization” means the board or a state-regulated financial
9 service provider.

10 **(3)** “Licensee” means a person holding a license issued under this subchapter.

11 **(4)** “Office” means the office of the student loan ombudsman in the department.

12 **(5)** “Servicing” means doing all of the following:

13 (a) Receiving scheduled periodic payments from a student loan borrower
14 pursuant to the terms of a student education loan.

15 (b) Applying the payments of principal and interest and any other payments
16 with respect to the amounts received from a student loan borrower as may be
17 required pursuant to the terms of a student education loan.

18 (c) Performing other administrative services with respect to a student
19 education loan.

20 **(6)** “State-regulated financial service provider” means any of the following:

21 (a) A bank organized under ch. 221.

22 (b) A savings bank organized under ch. 214.

23 (c) A savings and loan association organized under ch. 215.

24 (d) A credit union organized under ch. 186.

25 (e) A consumer lender licensed under s. 138.09.

ASSEMBLY BILL 711

1 (7) “Student education loan” means a loan that is extended to a student loan
2 borrower expressly for postsecondary education expenses or related expenses and
3 does not include open-end credit or any loan that is secured by real property.

4 (8) “Student loan borrower” means any of the following:

5 (a) A resident of this state who has received or agreed to pay a student
6 education loan.

7 (b) A person who shares legal responsibility with a resident under par. (a) for
8 repaying the student education loan.

9 (9) “Student loan servicer” means a person, wherever located, responsible for
10 the servicing of a student education loan, but does not include the board or any
11 state-regulated financial service provider.

12 **224.102 Ombudsman services.** The office shall do all of the following:

13 (1) Provide timely assistance to student loan borrowers.

14 (2) Receive, review, and attempt to resolve complaints from all of the following:

15 (a) Student loan borrowers.

16 (b) In collaboration with institutions of higher education, student loan
17 servicers and any other participants in student education loan lending, including
18 originators servicing their own student education loans.

19 (3) Compile and analyze data on student loan borrower complaints as
20 described in sub. (2) and as resolved under s. 224.104.

21 (4) Assist student loan borrowers in understanding their rights and
22 responsibilities under the terms of student education loans.

23 (5) Provide information to the public, agencies, the legislature, and others
24 regarding the problems and concerns of student loan borrowers and make
25 recommendations for resolving those problems and concerns.

ASSEMBLY BILL 711**SECTION 4**

1 (6) Analyze and monitor the development and implementation of federal, state,
2 and local laws, ordinances, regulations, rules, and policies relating to student loan
3 borrowers and recommend any necessary changes.

4 (7) Review, as authorized and appropriate, the complete student education
5 loan history for a student loan borrower who provides written consent for the review.

6 (8) Provide sufficient outreach and disseminate information concerning the
7 availability of the office to assist student loan borrowers and potential student loan
8 borrowers, public institutions of higher education, student loan servicers, and any
9 other participants in student education loan lending with any student education
10 loan servicing concerns.

11 (9) Seek the assistance of an exempt organization in the resolution of a student
12 loan borrower complaint as described in sub. (2) involving that exempt organization.
13 The exempt organization shall cooperate with the office as required by s. 224.104.

14 (10) Take any other action necessary to fulfill the duties of the office as set forth
15 in this subchapter.

16 **224.103 Annual report.** The office shall submit a report by January 1 of each
17 year to the standing committee of each house of the legislature having jurisdiction
18 over matters related to higher education. The report shall include all of the
19 following:

20 (1) A description of actions taken with respect to the implementation of this
21 subchapter.

22 (2) An assessment of the overall effectiveness of the office, including
23 information, in the aggregate, regarding student loan borrower complaints
24 investigated with the assistance of an exempt organization.

ASSEMBLY BILL 711

1 **(3)** Recommendations regarding additional steps for the department to gain
2 regulatory control over licensing and enforcement with respect to student loan
3 servicers.

4 **224.104 Assistance by exempt organizations; report.** **(1)** An exempt
5 organization that is requested by the office to provide assistance under s. 224.102 (9)
6 shall provide, in a timely manner, the information requested by the office necessary
7 to investigate and resolve a student loan borrower complaint, including the steps
8 taken by the exempt organization to resolve the complaint, or, on its own, shall
9 resolve, in a timely manner, the complaint and provide the office with documentation
10 regarding the resolution.

11 **(2)** Annually, an exempt organization that is involved in the resolution of a
12 complaint under this section shall report to the office the number of complaints
13 received and the number of complaints resolved by the exempt organization.

14 **224.105 Licensing of student loan servicers.** **(1)** A person, wherever
15 located, may not directly or indirectly engage in servicing student education loans
16 in this state without first obtaining a license from the office under this section, unless
17 the person is exempt from licensure under sub. (2).

18 **(2)** The following persons are exempt from the licensing requirement under
19 sub. (1):

20 (a) A state-regulated financial service provider.

21 (b) The board.

22 **(3)** A person seeking to act within this state as a student loan servicer shall
23 make a written application to the office for an initial license in the form prescribed
24 by the office. The application shall be accompanied by all of the following:

ASSEMBLY BILL 711**SECTION 4**

1 (a) A financial statement prepared by a certified public accountant or a public
2 accountant, a general partner if the applicant is a partnership, a corporate officer if
3 the applicant is a corporation, or a member duly authorized to execute such
4 documents if the applicant is a limited liability company or association.

5 (b) Information regarding the history of criminal convictions of the following,
6 which information must be sufficient, as determined by the office, to make the
7 findings under sub. (4):

8 1. The applicant.

9 2. Officers, directors, and principal employees of the applicant.

10 3. Each individual shareholder, member, or partner who directly or indirectly
11 controls 10 percent or more of the ownership interests of the applicant.

12 (c) A nonrefundable license fee of \$1,000.

13 (d) A nonrefundable investigation fee of \$800.

14 **(4)** Upon the filing of an application for an initial license and the payment of
15 the fees for licensing and investigation under sub. (3), the office shall investigate the
16 financial condition and responsibility, financial and business experience, character,
17 and general fitness of the applicant. The office may conduct criminal history
18 background checks of the applicant and of each partner, member, officer, director,
19 and principal employee of the applicant. The office may issue a license if the office
20 finds all of the following to be true:

21 (a) The applicant's financial condition is sound.

22 (b) The applicant's business will be conducted honestly, fairly, equitably,
23 carefully, and efficiently within the purposes and intent of this subchapter and in a
24 manner commanding the confidence and trust of the community.

ASSEMBLY BILL 711

1 (c) No person on behalf of the applicant has knowingly made an incorrect
2 statement of a material fact in the application or in any report or statement made
3 under this subchapter.

4 (d) The applicant has met any other requirements as determined by the office.

5 (5) A license issued under this section expires at the close of business on
6 September 30 of the odd-numbered year following its issuance, unless renewed or
7 earlier surrendered, suspended, or revoked. No later than 15 days after a licensee
8 ceases to engage in the business of student education loan servicing in this state for
9 any reason, including a business decision to terminate operations in this state,
10 license revocation, bankruptcy, or voluntary dissolution, the licensee shall provide
11 written notice of surrender to the office and shall surrender to the office its license
12 for each location in which the licensee has ceased to engage in such business. The
13 written notice of surrender shall identify the location where the records of the
14 licensee will be stored and the name, address, and telephone number of an individual
15 authorized to provide access to the records. The surrender of a license does not
16 reduce or eliminate the licensee's civil or criminal liability arising from acts or
17 omissions occurring prior to the surrender of the license, including any
18 administrative actions undertaken by the office.

19 (6) A license issued under this section may be renewed for the ensuing
20 24-month period upon the filing of an application containing all required documents
21 and fees as provided in this section. A renewal application shall be filed on or before
22 September 1 of the year in which the license expires. A renewal application filed with
23 the office after September 1 that is accompanied by a \$100 late fee is considered to
24 be timely and sufficient. If an application for a renewal license has been filed with
25 the office on or before the date the license expires, the license continues in effect until

ASSEMBLY BILL 711**SECTION 4**

1 the issuance by the office of the renewal license applied for or until the office has
2 notified the licensee in writing of the office's refusal to issue the renewal license
3 together with the grounds on which the refusal is based. The office may refuse to
4 issue a renewal license on any ground on which the office may refuse to issue an
5 initial license.

6 (7) An applicant or licensee under this section shall notify the office, in writing,
7 of any change in the information provided in the initial application for a license or
8 the most recent renewal application for a license, as applicable, not later than 10
9 business days after the occurrence of the event that results in the change.

10 (8) The office may consider an application for a license under this section
11 abandoned if the applicant fails to respond to any request for information required
12 under this subchapter or any rule promulgated under this subchapter, as long as the
13 office notifies the applicant, in writing, that the application will be considered
14 abandoned if the applicant fails to submit the information within 60 days after the
15 date on which the request for information is made. An application filing fee paid
16 prior to the date an application is abandoned under this subsection may not be
17 refunded. Abandonment of an application under this subsection does not preclude
18 the applicant from submitting a new application for a license under this section.

19 (9) A licensee may not act within this state as a student loan servicer under any
20 name or at any place of business other than that identified in the license. A licensee
21 may not change the location of the licensee's place of business without prior written
22 notice to the office. Not more than one place of business may be maintained under
23 the same license, but the office may issue more than one license to a licensee that
24 complies with the provisions of this subchapter as to each license. A license is not
25 transferable or assignable.

ASSEMBLY BILL 711

1 **(10)** (a) A student loan servicer shall maintain adequate records of each
2 student education loan transaction. Except as otherwise required by federal law, a
3 federal student loan education agreement, or a contract between the federal
4 government and the student loan servicer, a student loan servicer shall maintain
5 these records for not less than 2 years following the final payment on the student
6 education loan or the assignment of the student education loan, whichever occurs
7 first.

8 (b) Upon request by the office, a student loan servicer shall make the records
9 under par. (a) available or shall send these records to the office by registered or
10 certified mail, return receipt requested, or by any express delivery carrier that
11 provides a dated delivery receipt, not later than 5 business days after requested by
12 the office to do so. The office may grant a licensee additional time to make these
13 records available or to send the records to the office.

14 **(11)** (a) The office may suspend, revoke, or refuse to renew a license issued
15 under this section if the office finds any of the following:

16 1. That the licensee has violated any provision of this subchapter, any rule
17 promulgated thereunder, or any lawful order of the office made thereunder.

18 2. That any fact or condition exists that, if it had existed at the time of the
19 original application for the license, clearly would have warranted a denial of the
20 license.

21 3. That the licensee made a material misstatement in an application for a
22 license or in information furnished to the office.

23 4. That the licensee has failed to pay any fee required under this section.

24 (b) The office shall suspend a license issued under this section if the office finds
25 that the licensee is an individual who fails to comply, after appropriate notice, with

ASSEMBLY BILL 711**SECTION 4**

1 a subpoena or warrant issued by the department of workforce development or a
2 county child support agency under s. 59.53 (5) and related to paternity or child
3 support proceedings or who is delinquent in making court-ordered payments of child
4 or family support, maintenance, birth expenses, medical expenses, or other expenses
5 related to the support of a child or former spouse, as provided in a memorandum of
6 understanding entered into under s. 49.857. A licensee whose license is suspended
7 under this paragraph is entitled to a notice and hearing only as provided in a
8 memorandum of understanding entered into under s. 49.857 and is not entitled to
9 any other notice or hearing under this section.

10 (c) The office shall revoke a license issued under this section if the department
11 of revenue certifies under s. 73.0301 that the licensee is liable for delinquent taxes.
12 A licensee whose license is revoked under this paragraph for delinquent taxes is
13 entitled to a notice under s. 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5)
14 (a) but is not entitled to any other notice or hearing under this section.

15 (d) The office shall revoke a license issued under this section if the department
16 of workforce development certifies under s. 108.227 that the licensee is liable for
17 delinquent unemployment insurance contributions. A licensee whose license is
18 revoked under this paragraph for delinquent unemployment insurance
19 contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and a hearing under
20 s. 108.227 (5) (a) but is not entitled to any other notice or hearing under this section.

21 (e) A person whose license has been suspended, revoked, or refused renewal
22 under this subsection may request a hearing under s. 227.44 within 30 days after the
23 date of suspension, revocation, or refusal. The office may appoint a hearing examiner
24 under s. 227.46 to conduct the hearing. This paragraph does not apply to a
25 suspension or revocation under pars. (b) to (d).

ASSEMBLY BILL 711

1 (f) An abatement of the license fee may not be made if the license is suspended
2 or revoked under this subsection or surrendered in connection with a suspension or
3 revocation proceeding.

4 (12) All fees received by the office under this section shall be credited to the
5 appropriation account under s. 20.144 (1) (g).

6 **224.106 Student loan servicers.** (1) In this section, “nonconforming
7 payment” means a payment on a student education loan that is different from the
8 required payment.

9 (2) (a) Except as otherwise provided in federal law, a federal student education
10 loan agreement, or a contract between the federal government and a student loan
11 servicer, a student loan servicer shall comply with the requirements of this
12 subsection.

13 (b) A student loan servicer shall respond to a written inquiry from a student
14 loan borrower or the representative of a student loan borrower within 30 days after
15 receiving the inquiry.

16 (c) Upon receipt of a nonconforming payment on a student education loan, a
17 student loan servicer shall do all of the following:

18 1. Ask the student loan borrower how the student loan borrower prefers the
19 student loan servicer to apply the nonconforming payment.

20 2. Note how the student loan borrower prefers the student loan servicer to
21 apply the nonconforming payment.

22 3. Apply the nonconforming payment in the manner preferred by the student
23 loan borrower.

ASSEMBLY BILL 711**SECTION 4**

1 4. Until the student loan borrower indicates otherwise, apply any future
2 nonconforming payments in the same manner preferred by the student loan
3 borrower as noted under subd. 2.

4 (d) If there is a sale, assignment, or other transfer of the servicing of a student
5 education loan that results in a change in the identity of the person to whom a
6 student loan borrower is required to send payments or direct any communication
7 concerning the student education loan, all of the following apply:

8 1. As a condition of the sale, assignment, or transfer, the student loan servicer
9 shall require the new student loan servicer to honor all benefits originally
10 represented as available to the student loan borrower during the repayment of the
11 student education loan and preserve the availability of these benefits, including any
12 benefits for which the student loan borrower has not yet qualified.

13 2. Within 45 days after the sale, assignment, or transfer, the student loan
14 servicer shall transfer to the new student loan servicer all information regarding the
15 student loan borrower, the account of the student loan borrower, and the student
16 education loan of the student loan borrower, including the repayment status of the
17 student loan borrower and any benefits associated with the student education loan.

18 3. The sale, assignment, or transfer of the servicing of the student education
19 loan shall be completed at least 7 days before the next payment on the student
20 education loan is due.

21 (e) A student loan servicer that obtains the right to service a student education
22 loan shall adopt policies and procedures to verify that the student loan servicer has
23 received all information regarding the student loan borrower, the account of the
24 student loan borrower, and the student education loan of the student loan borrower,

ASSEMBLY BILL 711

1 including the repayment status of the student loan borrower and any benefits
2 associated with the student education loan.

3 (3) A student loan servicer may not do any of the following:

4 (a) Directly or indirectly employ a scheme, device, or artifice to defraud or
5 mislead any student loan borrower.

6 (b) Engage in an unfair or deceptive practice toward any person or
7 misrepresent or omit any material information in connection with the servicing of
8 a student education loan, including misrepresenting the amount, nature, or terms
9 of any fee or payment due or claimed to be due on a student education loan, the terms
10 and conditions of the loan agreement, or the student loan borrower's obligations
11 under the loan.

12 (c) Obtain property by fraud or misrepresentation.

13 (d) Misapply student education loan payments to the outstanding balance of
14 a student education loan.

15 (e) Provide inaccurate information to a credit bureau, thereby harming the
16 determination of a student loan borrower's creditworthiness.

17 (f) Fail to report both the favorable and unfavorable payment history of a
18 student loan borrower to a nationally recognized consumer credit bureau at least
19 annually if the student loan servicer regularly reports information to such a credit
20 bureau.

21 (g) Refuse to communicate with an authorized representative of a student loan
22 borrower who provides a written authorization signed by the student loan borrower,
23 except that the student loan servicer may adopt procedures reasonably related to
24 verifying that the representative is in fact authorized to act on behalf of the student
25 loan borrower.

ASSEMBLY BILL 711**SECTION 4**

1 (h) Make any false statement or omit a material fact in connection with
2 information or reports filed with a governmental agency or in connection with an
3 investigation conducted by the office or another governmental agency.

4 (i) Fail to evaluate a student loan borrower for an income-based repayment
5 program prior to placing the student loan borrower in forbearance or default, if an
6 income-based repayment program is available to the student loan borrower.

7 (j) Violate any applicable federal law or regulation relating to student
8 education loan servicing, including the federal Truth in Lending Act, 15 USC 1601
9 to 1667f, and regulations adopted under that act.

10 **(4)** (a) A student loan borrower injured by violation of this section may bring
11 an action in any court of competent jurisdiction and recover the damages, fees, and
12 penalties set forth in par. (b).

13 (b) A student loan servicer that fails to comply with any requirement imposed
14 under this section with respect to a student loan borrower is liable in an amount
15 equal to the sum of all of the following:

16 1. Any actual damages sustained by the student loan borrower as result of the
17 violation.

18 2. If the student loan borrower establishes by a preponderance of the evidence
19 that the violation was willful or intentional, a monetary award equal to 2 times the
20 amount of actual damages.

21 3. In the case of any successful action by the student loan borrower to enforce
22 the liability set out in this paragraph, the costs of the action, together with
23 reasonable attorney fees, as determined by the court.

ASSEMBLY BILL 711

1 (c) For purposes of par. (b), actual damages includes damages caused by
2 emotional distress or mental anguish with or without accompanying physical injury
3 proximately caused by a violation of this section.

4 (d) The remedies provided in this subsection do not preclude the availability
5 of other remedies that may be available to a student loan borrower.

6 **224.107 Office powers and duties. (1)** The office may conduct
7 investigations and examinations as follows:

8 (a) For purposes of initial licensing, renewal, suspension, or revocation or of
9 investigation to determine compliance with this subchapter, the office may access,
10 receive, and use any books, accounts, records, files, documents, information, or
11 evidence belonging to a licensee or person under examination, including any of the
12 following:

- 13 1. Criminal, civil, and administrative history information.
- 14 2. Personal history and experience information, including independent credit
15 reports obtained from a consumer reporting agency, as defined in 15 USC 1681a.
- 16 3. Any other documents, information, or evidence the office considers relevant
17 to the inquiry or investigation regardless of the location, possession, control, or
18 custody of the documents, information, or evidence.

19 (b) For the purposes of investigating violations or complaints arising under this
20 subchapter or of examination, the office may review, investigate, or examine any
21 licensee or person subject to this subchapter as often as necessary in order to carry
22 out the purposes of this subchapter. The office may direct, subpoena, or order the
23 attendance of and examine under oath any person whose testimony may be required
24 about the student education loan or the business or subject matter of the
25 examination or investigation and may direct, subpoena, or order the person to

ASSEMBLY BILL 711**SECTION 4**

1 produce books, accounts, records, files, and any other documents the office considers
2 relevant to the inquiry.

3 (c) In making an examination or investigation authorized by this section, the
4 office may control access to any documents and records of the licensee or person
5 under examination or investigation. The office may take possession of the
6 documents and records or place a person in exclusive charge of the documents and
7 records in the place where they are usually kept. During the period of control, a
8 person may not remove or attempt to remove any of the documents and records
9 except pursuant to a court order or with the consent of the office. Unless the office
10 has reasonable grounds to believe the documents or records of the licensee or person
11 have been, or are at risk of being, altered or destroyed for purposes of concealing a
12 violation of this subchapter, the licensee or owner of the documents and records may
13 have access to the documents or records as necessary to conduct its ordinary business
14 affairs.

15 (d) In order to carry out the purposes of this section, the office may do any of
16 the following:

17 1. Retain attorneys, accountants, or other professionals and specialists as
18 examiners, auditors, or investigators to conduct or assist in the conduct of
19 examinations or investigations.

20 2. Enter into agreements or relationships with other government officials or
21 regulatory associations in order to improve efficiencies and reduce regulatory
22 burden by sharing resources, standardized or uniform methods or procedures, and
23 documents, records, information, or evidence obtained under this section.

ASSEMBLY BILL 711

1 3. Use, hire, contract for, or employ public or privately available analytical
2 systems, methods, or software to examine or investigate the licensee or person
3 subject to this subchapter.

4 4. Accept and rely on examination or investigation reports made by other
5 government officials, within or outside this state.

6 5. Accept audit reports made by an independent certified public accountant for
7 the licensee or person subject to this subchapter in the course of that part of the
8 examination covering the same general subject matter as the audit and may
9 incorporate the audit report in a report of examination, report of investigation, or
10 other writing of the office.

11 (e) A licensee or person subject to investigation or examination under this
12 section may not knowingly withhold, abstract, remove, mutilate, or destroy any
13 books, physical records, computer records, or other information relating to
14 information regulated under this subchapter.

15 (f) The costs of an investigation conducted by the office shall be paid by the
16 licensee or person being investigated. Funds received by the office under this
17 paragraph shall be credited to the appropriation account under s. 20.144 (1) (g).

18 **(2)** The office may do any of the following to address a violation of this
19 subchapter, any rule promulgated under this subchapter, or any order issued under
20 this subchapter:

21 (a) Issue an order requiring a student loan servicer to cease and desist from a
22 violation, to correct the conditions resulting from the violation, and to take actions
23 to prevent such violations in the future. As part of the order, the office may require
24 the student loan servicer to reimburse persons injured by the violation. A student

ASSEMBLY BILL 711**SECTION 4**

1 loan servicer that violates an order issued under this paragraph shall, for each
2 violation, forfeit not more than \$1,000 per day for each day the violation continues.

3 (b) Commence administrative proceedings on its own initiative, or commence
4 civil actions through the department of justice, to restrain by temporary or
5 permanent injunction a person from violating this subchapter, to recover any fees or
6 penalties owed under this subchapter, or to seek relief available under this
7 subchapter on behalf of student loan borrowers.

8 (c) Suspend, revoke, or refuse to renew a license issued under s. 224.105 as
9 provided in s. 224.105 (11).

10 **(3)** The office may promulgate rules to implement this subchapter.

11 **SECTION 5. Nonstatutory provisions.**

12 (1) (a) No later than the 90th day after the effective date of this paragraph, the
13 department of financial institutions shall determine whether it can fully implement
14 the provisions created in this act as subch. V of ch. 224 by the 90th day after the
15 effective date of this paragraph, and shall provide notice of this determination to the
16 legislative reference bureau by that date.

17 (b) If the notice of the department of financial institutions under par. (a) states
18 that the department cannot fully implement the provisions created in this act as
19 subch. V of ch. 224 by the 90th day after the effective date of this paragraph, the
20 department shall provide notice to the legislative reference bureau of the date on
21 which the provisions created in this act as subch. V of ch. 224 will be fully
22 implemented, which date may not be later than January 1, 2023, and the legislative
23 reference bureau shall publish a notice in the Wisconsin Administrative Register
24 that specifies this date.

