

CHAPTER 37
STUDENT LOAN DEBT COLLECTION

283—37.1(261) General purpose. As an aid to the collection of defaulted student loans, the commission may initiate the license sanction process described in Iowa Code sections 261.121 to 261.127 to suspend, revoke or deny issuance or renewal of a variety of licenses held or applied for by any person who has defaulted on an obligation owed to or collected by the commission. Licenses subject to this sanction process include motor vehicle registrations, driver's licenses, business and professional licenses, and licenses for hunting, fishing, boating or other recreational activity, as defined in Iowa Code section 252J.1(1). In addition to the procedures set forth in Iowa Code sections 261.121 to 261.127, this chapter shall apply.

As an additional aid to the collection of defaulted student loans, the commission may apply administrative wage garnishment procedures established under Iowa Code chapter 261, specifically including private partnership loans authorized for collection under Iowa Code section 261.38.

283—37.2(261) Definitions.

37.2(1) A "debtor" is a person who has defaulted on any obligation owed to or collected by the commission.

37.2(2) A debtor is in "default" if:

a. The debtor is obligated to pay under a federal student loan guaranteed by the commission pursuant to the provisions of Iowa Code sections 261.35 to 261.43, and the debtor's default is certified to the commission by an eligible lender, and 60 days have passed since such certification;

b. The debtor is obligated to pay under a partnership student loan issued by Iowa Student Loan Liquidity Corporation (ISLLC), and the commission acquires the debtor's loan as a default pursuant to Iowa Code section 261.38 due to the debtor's failure to make payments to ISLLC;

c. The debtor becomes obligated to repay the commission under the teacher shortage forgivable loan program pursuant to Iowa Code section 261.111, or under the Des Moines university tuition scholarship program or physician loan repayment program pursuant to Iowa Code sections 261.19(3) and (4), and fails to make an agreed payment within 15 days of the agreed due date; or

d. The debtor enters into a written repayment agreement with the commission and fails to make an agreed payment within 15 days of the due date stated in the repayment agreement.

37.2(3) The phrase "delinquent obligation owed" means the total amount of the debtor's obligation, including principal and unpaid accrued interest, and may include collection costs, court filing fees, and sheriff's fees.

283—37.3(261) License sanction program.

37.3(1) Service of notice. The notice described in Iowa Code section 261.121(2) shall be served by restricted certified mail, return receipt requested, addressed to the debtor at the debtor's last-known residence or principal place of business. If the debtor signs for the notice, the return post office receipt shall be proof of service. If the debtor fails to sign for the notice, the commission may personally serve the debtor in accordance with Iowa Rules of Civil Procedure.

37.3(2) Exclusions from license sanction process. The commission may determine that the issuance of a certificate of noncompliance is not appropriate pursuant to Iowa Code section 261.122(5) “c,” or that a certificate of noncompliance should be withdrawn pursuant to Iowa Code section 261.124(5) “d,” during periods in which any of the following conditions exist:

a. Written verification that the debtor has been deemed eligible for and is receiving supplemental security income (SSI), similar state- or federal-funded assistance, or county assistance, such as general relief or general assistance.

b. Verified economic hardship which the commission determines from the debtor’s sworn financial statement and other relevant evidence would likely qualify for hardship discharge of student loans under the Bankruptcy Code.

c. A verified temporary illness or disability of the debtor or of another household member which prevents the debtor from working or requires the presence of the debtor in the home as a caretaker.

d. Verified incarceration.

e. Verified participation on an in-treatment basis in a chemical dependency program licensed by the department of public health or a similar program.

37.3(3) Written agreement. A debtor may, at any time, with or without a requested conference, enter into a satisfactory written repayment agreement to either avoid the issuance of a certificate of noncompliance or to secure a withdrawal of an issued certificate of noncompliance. In determining whether the terms of a proposed repayment agreement are satisfactory, the commission shall take into account the debtor’s ability to pay. Repayment terms shall be deemed satisfactory if the debtor agrees to pay at least the maximum amount which would be subject to an administrative wage withholding procedure, or the equivalent for a self-employed person. In addition, the commission may take into consideration the recent existence of any of the conditions outlined in rule 37.4(261), if verified, and if the debtor can demonstrate that insufficient time has passed for the debtor to regain an ability to repay obligations owed to the commission.

37.3(4) Right to court hearing. The debtor may request a hearing before the district court in the debtor’s county of residence. The scope of the court’s review is limited to whether the debt is delinquent, whether the amount of the delinquency is misstated, or whether a mistake has been made in the identity of the debtor.

283—37.4(261) Administrative wage garnishment procedures. The commission shall apply administrative wage garnishment procedures established under the federal Higher Education Act of 1965, as amended and codified in 20 U.S.C. § 1071 et seq., in the collection of all delinquent student loans owed to the commission.

37.4(1) Notice prior to wage withholding. A debtor shall receive a “notice prior to wage withholding” from the commission inviting the debtor to enter into voluntary monthly payments with the commission within 30 days after receipt of the notice.

37.4(2) Right to hearing. A debtor is entitled to a hearing before an administrative law judge if a petition is filed requesting a hearing on or before the fifteenth day following mailing of the “notice prior to wage withholding.”

37.4(3) Repayment agreement. A debtor who negotiates a monthly payment with the commission shall receive a “repayment agreement in lieu of wage withholding” reflecting the payment amount and payment date agreed upon (15-day grace period) for the debtor’s signature and return to the commission.

37.4(4) Debtor's failure to arrange timely voluntary payments.

a. The employer of a debtor who is financially capable of paying, but who fails to make voluntary payments after receiving a "notice prior to wage withholding" from the commission, or who signs a "repayment agreement in lieu of wage withholding" but subsequently fails to make regular monthly payments, shall receive an "order of withholding from earnings" from the commission, directing the debtor's employer to deduct and pay to the commission from the debtor's wages an amount that does not exceed 10 percent of the debtor's disposable pay for each pay period, unless the debtor provides the commission with written consent to deduct a greater amount. A duplicate copy of the order shall be provided to the debtor by the employer.

b. The employer also shall receive from the commission an "employer acknowledgment of wage withholding" which should be completed and returned to the commission within ten business days.

c. The employer shall notify the commission if the debtor changes employment. The employer shall provide the debtor's date of termination, last-known address, and current employer and telephone number (if known).

d. The commission will send the employer a "release of order of withholding from earnings" when the debtor's partnership loan or other loan being collected under Iowa Code section 261.38 is paid in full.

These rules are intended to implement Iowa Code sections 261.37, 261.38 and 261.121 to 261.127.

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