

House File 321

H-8242

1 Amend House File 321 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 533A.1, subsection 2, Code 2019, is  
5 amended by adding the following new paragraph:

6 NEW PARAGRAPH. e. Serving as an intermediary between a  
7 debtor and one or more creditors or loan servicers of the  
8 debtor for the purpose of seeking modification of the terms of  
9 an educational loan.

10 Sec. 2. Section 533A.1, Code 2019, is amended by adding the  
11 following new subsections:

12 NEW SUBSECTION. 5A. "*Educational loan*" means the same as  
13 defined in section 261F.1.

14 NEW SUBSECTION. 8A. "*Loan servicer*" means a person who is  
15 engaged in the direct collection of payments on a loan from  
16 the debtor or holds the right to undertake direct collection  
17 of payments on a loan from the debtor, including but not  
18 limited to receiving scheduled periodic payments from the  
19 debtor pursuant to the terms of the loan or holding the right  
20 to service the loan, such as by contracting with or otherwise  
21 arranging for another person to service the loan.

22 Sec. 3. NEW SECTION. 533A.8A **Educational loan debt**  
23 **management services — contract requirements — prohibitions —**  
24 **remedies.**

25 1. In addition to any other requirements applicable to a  
26 licensee pursuant to this chapter, a licensee who is engaged  
27 primarily in the business of debt management in connection with  
28 educational loans, as described in section 533A.1, subsection  
29 2, paragraph "e", shall do so in accordance with this section.  
30 The provisions of this section are not exclusive and do not  
31 relieve persons or a contract from compliance with other  
32 applicable law.

33 2. A licensee shall not receive any compensation for  
34 providing educational loan debt management services until after  
35 the licensee has fully performed all services that the licensee

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1 contracted to perform or represented the licensee would  
2 perform, and shall not request any payment from the debtor or  
3 require the debtor to provide payment to any third party prior  
4 to fully performing all services.

5 3. a. A debtor has an unconditional right to cancel a  
6 contract with a licensee for educational loan debt management  
7 services at any time prior to midnight of the third business  
8 day following the date a contract which complies with this  
9 section is signed and executed.

10 b. Cancellation of a contract occurs when the debtor  
11 delivers, by any means, written notice of cancellation to the  
12 address specified in the contract. Notice of cancellation,  
13 if delivered by mail, is effective when deposited in the  
14 mail properly addressed with postage prepaid. Notice of  
15 cancellation delivered by electronic mail is effective upon  
16 transmission. Notice of cancellation delivered personally is  
17 effective upon delivery. Notice of cancellation given by the  
18 debtor need not take the particular form as provided in the  
19 contract and, however expressed, is effective if the notice of  
20 cancellation indicates the intention of the debtor not to be  
21 bound by the contract.

22 4. A contract to provide debt management services in  
23 connection with an educational loan shall be written in clear,  
24 understandable language, shall clearly and conspicuously set  
25 forth any and all terms, restrictions, and conditions governing  
26 the contract, and shall describe fully and in detail all  
27 services that the licensee contracts to perform for the debtor.  
28 The contract shall be dated and signed by the debtor. The  
29 contract shall set forth information required in this section  
30 in at least ten point type. The following shall be included in  
31 the contract:

32 a. The licensee's name, the licensee's electronic mail  
33 address, and the physical address of the licensee's place of  
34 business to which the notice of cancellation is to be mailed  
35 or otherwise delivered. A post office box does not constitute

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1 a physical address. A post office box may be designated for  
2 delivery by mail only if it is accompanied by a physical  
3 address at which the notice could be delivered by a method  
4 other than mail.

5 *b.* A disclosure statement in substantially the following  
6 form shall appear in at least fourteen point boldface type  
7 immediately above the place where the debtor is to sign:

8 You, the debtor, may cancel this contract at any time prior  
9 to midnight of the third business day after the contract is  
10 signed and executed. See the attached notice of cancellation  
11 form for an explanation of this right.

12 *c.* A completed, easily detachable form in duplicate,  
13 captioned "notice of cancellation", as an attachment, in at  
14 least fourteen point boldface type, containing the following  
15 statement in substantially the following form and language:

16 NOTICE OF CANCELLATION

17 .....

18 (date contract is signed and executed)

19 You, the debtor, may cancel this contract without any  
20 penalty or obligation, within three business days from the  
21 above date.

22 To cancel this contract, you may use any of the following  
23 methods: (1) send by postal mail or otherwise deliver a  
24 signed and dated copy of this cancellation notice, or any  
25 other written notice of cancellation, to (physical address of  
26 licensee's place of business); or (2) send by electronic mail a  
27 notice of cancellation to (licensee's electronic mail address).

28 No later than midnight of (date).

29 I hereby cancel this contract.

30 .....

31 (date)

32 .....

33 (debtor's signature)

34 *d.* A disclosure statement in substantially the following  
35 form shall appear in at least fourteen point boldface type

1 immediately above the "Notice of Cancellation" form described  
2 in paragraph "c":

3 NOTICE REQUIRED BY IOWA LAW

4 (Insert name of licensee) or anyone working for (insert name  
5 of licensee) CANNOT take payment directly from you or require  
6 you to pay for or finance its services through a third party  
7 until (insert name of licensee) has fully performed each and  
8 every service that (insert name of licensee) contracted to  
9 perform or represented that (insert name of licensee) would  
10 perform.

11 5. A licensee who is engaged primarily in the business of  
12 debt management in connection with educational loans shall not  
13 do any of the following:

14 a. Claim, demand, charge, collect, or receive compensation  
15 until after the licensee has fully performed each and every  
16 service the licensee contracted to perform or represented the  
17 licensee would perform.

18 b. Execute a contract with a debtor for educational loan  
19 debt management services in violation of this section.

20 c. Receive consideration from any third party in connection  
21 with services rendered to a debtor unless the consideration is  
22 first fully disclosed to the debtor.

23 d. Prohibit or impede a debtor from contacting any creditor,  
24 lender, loan servicer, government entity, attorney, counselor,  
25 individual, or company that may seek to help the debtor. Any  
26 such provision is void and unenforceable.

27 e. Access or obtain a debtor's federal student aid  
28 information in violation of federal law.

29 f. Compensate employees, including independent contractors,  
30 based on the number of debtors recruited by the employees or  
31 enrolled in particular programs, or provide compensation to  
32 employees on any other commission-based system.

33 g. Pay or offer to pay any compensation, bonus, gift,  
34 commission, or other consideration to any person for the  
35 referral of a debtor to the licensee's business.

1     *h.* Accept or receive any compensation, bonus, gift,  
2 commission, or other consideration for service to the  
3 debtor from any person other than the debtor, the debtor's  
4 representative, or any third party providing financing that is  
5 otherwise in compliance with the requirements of this section.

6     *i.* Disclose any information regarding a debtor to anyone  
7 other than law enforcement, government entities, loan  
8 servicers, creditors of the debtor, or as required by law.

9     *j.* Disclose any information regarding the creditor of  
10 a debtor to anyone other than the debtor, the debtor's  
11 representative, or as required by law.

12     6. *a.* A violation of this section is an unlawful practice  
13 pursuant to section 714.16, and all remedies of section  
14 714.16 are available for such an action. A private cause of  
15 action brought under this section by a debtor is in the public  
16 interest. A debtor may bring an action against a licensee  
17 for a violation of this section. If the court finds that the  
18 licensee violated this section, the court shall award the  
19 debtor actual damages, appropriate equitable relief, and the  
20 costs of the action, and shall award reasonable fees to the  
21 debtor's attorney.

22     *b.* The rights and remedies provided in paragraph "a" are  
23 cumulative to, and not a limitation of, any other rights and  
24 remedies provided by law. Any action brought by a person other  
25 than the attorney general or the superintendent pursuant to  
26 this section must be commenced within four years from the date  
27 of the alleged violation.

28     *c.* Notwithstanding any other provision of this section,  
29 an action shall not be brought on the basis of a violation of  
30 this section, except by a debtor against whom the violation was  
31 committed or by the attorney general or superintendent. This  
32 limitation does not apply to administrative action by either  
33 the attorney general or the superintendent.>

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