

MAR 6 1997

EDUCATION

HOUSE FILE 489
BY GRUNDBERG

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to licensing sanctions against persons who
2 default on obligations owed to or collected by the college
3 student aid commission.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 489

1 Section 1. NEW SECTION. 261.110 NOTICE TO OBLIGOR OF
2 POTENTIAL SANCTION OF LICENSE.

3 1. The commission may initiate action to deny, revoke, or
4 suspend any license authorized by the laws of this state, as
5 defined in section 252J.1, to any person who has defaulted on
6 an obligation owed to or collected by the commission as
7 provided in this section and sections 261.111 through 261.116.

8 2. The commission shall proceed in accordance with this
9 section and sections 261.111 through 261.116 only if notice is
10 served on an obligor by certified mail addressed to the
11 obligor at the obligor's last known dwelling place or
12 principal place of business. The return post-office receipt
13 signed by the obligor shall be proof of notice. Return
14 acknowledgment is required to prove notice by certified mail.
15 The notice shall include all of the following:

16 a. The address and telephone number of the commission and
17 the obligor's file number.

18 b. A statement that the obligor is in default on an
19 obligation owed to or collected by the commission.

20 c. A statement that the obligor may request a conference
21 with the commission to contest the action.

22 d. A statement that if, within twenty days of service of
23 notice on the obligor, the obligor fails to contact the
24 commission to schedule a conference, the commission shall
25 issue a certificate of noncompliance, bearing the obligor's
26 name, social security number, and file number to any
27 appropriate licensing authority, certifying that the obligor
28 is in default on an obligation owed to or collected by the
29 commission.

30 e. A statement that in order to stay the issuance of a
31 certificate of noncompliance, the request for a conference
32 shall be in writing and shall be received by the commission
33 within twenty days of service of notice on the obligor.

34 f. The names of the licensing authorities to which the
35 commission intends to issue a certificate of noncompliance.

1 g. A statement that if the commission issues a certificate
2 of noncompliance to an appropriate licensing authority, the
3 licensing authority shall initiate proceedings to refuse to
4 issue or renew, or to suspend or revoke, the obligor's
5 license, unless the commission provides the licensing
6 authority with a withdrawal of a certificate of noncompliance.

7 Sec. 2. NEW SECTION. 261.111 CONFERENCE.

8 1. The obligor may schedule a conference with the
9 commission following service of notice pursuant to section
10 261.110 or at any time after notice of suspension, revocation,
11 denial of issuance, or nonrenewal of a license from a
12 licensing authority, to challenge the commission's actions
13 under sections 261.110 through 261.116.

14 2. The request for a conference shall be made to the
15 commission, in writing, and, if requested after service of
16 notice pursuant to this section, shall be received by the
17 commission within twenty days following service of notice.

18 3. The commission shall notify the obligor of the date,
19 time, and location of the conference by regular mail, with the
20 date of the conference to be no earlier than ten days
21 following issuance of notice of the conference by the
22 commission. If the obligor fails to appear at the conference,
23 the commission shall issue a certificate of noncompliance.

24 4. The commission shall grant the obligor a stay of the
25 issuance of a certificate of noncompliance upon receiving a
26 timely written request for a conference, and if a certificate
27 of noncompliance has previously been issued, shall issue a
28 withdrawal of a certificate of noncompliance if the obligor
29 enters into a written agreement with the commission to repay
30 the obligation.

31 5. Following the conference, the commission shall issue a
32 certificate of noncompliance unless any of the following
33 applies:

34 a. The commission finds a mistake in the identity of the
35 obligor.

1 b. The obligor enters into a written agreement with the
 2 commission to comply with a repayment plan agreed to by the
 3 commission and the obligor as a result of the conference, or
 4 to comply with the existing contract, or the obligor pays the
 5 total amount of the delinquent obligation due.

6 c. Issuance of a certificate of noncompliance is not
 7 appropriate under other criteria established in accordance
 8 with rules adopted by the commission pursuant to chapter 17A.

9 6. If the obligor does not timely request a conference or
 10 pay the total amount of delinquent obligation owed within
 11 twenty days of service of notice pursuant to section 261.110,
 12 the commission shall issue a certificate of noncompliance.

13 Sec. 3. NEW SECTION. 261.112 WRITTEN AGREEMENT.

14 1. The obligor and the commission may enter into a written
 15 agreement for payment of the obligation which takes into
 16 consideration the obligor's ability to pay and other criteria
 17 established by rule of the commission. The written agreement
 18 shall include all of the following:

19 a. The method, amount, and dates of payments by the
 20 obligor.

21 b. A statement that upon breach of the written agreement
 22 by the obligor, the commission shall issue a certificate of
 23 noncompliance to any appropriate licensing authority.

24 c. A written agreement entered into pursuant to this
 25 subsection does not preclude any other remedy provided by law.

26 2. Following issuance of a certificate of noncompliance,
 27 if the obligor enters into a written agreement with the
 28 commission, the commission shall issue a withdrawal of the
 29 certificate of noncompliance and shall forward a copy of the
 30 withdrawal by regular mail to the obligor and any appropriate
 31 licensing authority.

32 Sec. 4. NEW SECTION. 261.113 DECISION OF THE COMMISSION.

33 1. The commission shall issue a written decision if any of
 34 the following conditions exists:

35 a. The obligor fails to appear at a scheduled conference

1 under section 261.111.

2 b. A conference is held under section 261.111.

3 c. The obligor fails to comply with a written agreement
4 entered into by the obligor and the commission under section
5 261.112.

6 2. The commission shall send a copy of the written
7 decision to the obligor by regular mail at the obligor's most
8 recent address of record or principal place of business.

9 3. If the decision is made to issue a certificate of
10 noncompliance or to withdraw the certificate of noncompliance,
11 a copy of the certificate of noncompliance or of the
12 withdrawal of the certificate of noncompliance shall be
13 attached to the written decision.

14 4. The written decision shall state all of the following:

15 a. That a copy of the certificate of noncompliance or
16 withdrawal of the certificate of noncompliance has been
17 provided to the licensing authorities named in the notice
18 provided pursuant to section 261.110.

19 b. That upon receipt of a certificate of noncompliance,
20 the licensing authority shall initiate proceedings to suspend,
21 revoke, deny issuance, or deny renewal of a license, unless
22 the licensing authority is provided with a withdrawal of a
23 certificate of noncompliance from the commission.

24 c. That in order to obtain a withdrawal of a certificate
25 of noncompliance from the commission, the obligor shall enter
26 into a written agreement with the commission, comply with an
27 existing written agreement with the commission, or pay the
28 total amount of delinquent obligation owed.

29 d. That if the commission issues a written decision which
30 includes a certificate of noncompliance, all of the following
31 apply:

32 (1) The obligor may request a hearing as provided in
33 section 261.116, before the district court in the county of
34 the obligor's residence, by filing a written application to
35 the court challenging the issuance of the certificate of

1 noncompliance by the commission and sending a copy of the
2 application to the commission within the time period specified
3 in section 261.116.

4 (2) The obligor may retain an attorney at the obligor's
5 own expense to represent the obligor at the hearing.

6 (3) The scope of review of the district court shall be
7 limited to demonstration of a mistake of fact related to the
8 delinquency of the obligor.

9 5. If the commission issues a certificate of
10 noncompliance, the commission shall only issue a withdrawal of
11 the certificate of noncompliance if any of the following
12 applies:

13 a. The commission or the court finds a mistake in the
14 identity of the obligor.

15 b. The commission or the court finds a mistake in
16 determining the amount of a delinquent obligation.

17 c. The obligor enters into a written agreement with the
18 commission to comply with an obligation, the obligor complies
19 with an existing written agreement to comply with an
20 obligation, or the obligor pays the total amount of delinquent
21 obligation owed.

22 d. Issuance of a withdrawal of the certificate of
23 noncompliance is appropriate under other criteria in
24 accordance with rules adopted by the commission pursuant to
25 chapter 17A.

26 Sec. 5. NEW SECTION. 261.114 CERTIFICATE OF
27 NONCOMPLIANCE -- CERTIFICATION TO LICENSING AUTHORITY.

28 1. If an obligor fails to respond to the notice of
29 potential license sanction provided pursuant to section
30 261.110 or the commission issues a written decision under
31 section 261.113 which states that the obligor is not in
32 compliance, the commission shall certify, in writing, to any
33 appropriate licensing authority that the obligor is not in
34 compliance and shall include a copy of the certificate of
35 noncompliance.

1 2. The certificate of noncompliance shall contain the
2 obligor's name, social security number, and file number.

3 3. The certificate of noncompliance shall require all of
4 the following:

5 a. That the licensing authority initiate procedures for
6 the revocation or suspension of the obligor's license, or for
7 the denial of the issuance or renewal of a license using the
8 licensing authority's procedures.

9 b. That the licensing authority provide notice to the
10 obligor, as provided in section 261.115, of the intent to
11 suspend, revoke, deny issuance, or deny renewal of a license
12 including the effective date of the action. The suspension,
13 revocation, or denial shall be effective no sooner than thirty
14 days following provision of notice to the obligor.

15 Sec. 6. NEW SECTION. 261.115 REQUIREMENTS AND PROCEDURES
16 OF LICENSING AUTHORITY.

17 1. A licensing authority shall maintain records of
18 licensees by name, current known address, and social security
19 number.

20 2. In addition to other grounds for suspension,
21 revocation, or denial of issuance or renewal of a license, a
22 licensing authority shall include in rules adopted by the
23 licensing authority as grounds for suspension, revocation, or
24 denial of issuance or renewal of a license, the receipt of a
25 certificate of noncompliance from the commission.

26 3. The supreme court shall prescribe rules for admission
27 of persons to practice as attorneys and counselors pursuant to
28 chapter 602, article 10, which include provisions, as
29 specified in this chapter, for the denial, suspension, or
30 revocation of the admission for failure to repay an obligation
31 owed to or collected by the commission.

32 4. A licensing authority that is issued a certificate of
33 noncompliance shall initiate procedures for the suspension,
34 revocation, or denial of issuance or renewal of licensure to
35 an obligor. The licensing authority shall utilize existing

1 rules and procedures for suspension, revocation, or denial of
2 the issuance or renewal of a license.

3 In addition, the licensing authority shall provide notice
4 to the obligor of the licensing authority's intent to suspend,
5 revoke, or deny issuance or renewal of a license under this
6 chapter. The suspension, revocation, or denial shall be
7 effective no sooner than thirty days following provision of
8 notice to the obligor. The notice shall state all of the
9 following:

10 a. The licensing authority intends to suspend, revoke, or
11 deny issuance or renewal of an obligor's license due to the
12 receipt of a certificate of noncompliance from the commission.

13 b. The obligor must contact the commission to schedule a
14 conference or to otherwise obtain a withdrawal of a
15 certificate of noncompliance.

16 c. Unless the commission furnishes a withdrawal of a
17 certificate of noncompliance to the licensing authority within
18 thirty days of the issuance of the notice under this section,
19 the obligor's license shall be revoked, suspended, or denied.

20 d. If the licensing authority's rules and procedures
21 conflict with the additional requirements of this section, the
22 requirements of this section shall apply. Notwithstanding
23 section 17A.18, the obligor does not have a right to a hearing
24 before the licensing authority to contest the authority's
25 actions under this chapter, but may request a court hearing
26 pursuant to section 261.116 within thirty days of the
27 provision of notice under this section.

28 5. If the licensing authority receives a withdrawal of a
29 certificate of noncompliance from the commission, the
30 licensing authority shall immediately reinstate, renew, or
31 issue a license if the obligor is otherwise in compliance with
32 licensing requirements established by the licensing authority.

33 Sec. 7. NEW SECTION. 261.116 DISTRICT COURT HEARING.

34 1. Following the issuance of a written decision by the
35 commission under section 261.113, which includes the issuance

1 of a certificate of noncompliance, or following provision of
2 notice to the obligor by a licensing authority pursuant to
3 section 261.115, an obligor may seek review of the decision
4 and request a hearing before the district court in the
5 obligor's county of residence, by filing an application with
6 the district court, and sending a copy of the application to
7 the commission by regular mail. An application shall be filed
8 to seek review of the decision by the commission or following
9 issuance of notice by the licensing authority no later than
10 within thirty days after the issuance of the notice pursuant
11 to section 261.115. The clerk of the district court shall
12 schedule a hearing and mail a copy of the order scheduling the
13 hearing to the obligor and the commission and shall also mail
14 a copy of the order to the licensing authority, if applicable.
15 The commission shall certify a copy of its written decision
16 and certificate of noncompliance, indicating the date of
17 issuance, and the licensing authority shall certify a copy of
18 a notice issued pursuant to section 261.115, to the court
19 prior to the hearing.

20 2. The filing of an application pursuant to this section
21 shall automatically stay the actions of a licensing authority
22 pursuant to section 261.115. The hearing on the application
23 shall be scheduled and held within thirty days of the filing
24 of the application. However, if the obligor fails to appear
25 at the scheduled hearing, the stay shall be lifted and the
26 licensing authority shall continue procedures pursuant to
27 section 261.115.

28 3. The scope of review by the district court shall be
29 limited to demonstration of a mistake of fact relating to the
30 delinquency of the obligor.

31 4. If the court finds that the commission was in error in
32 issuing a certificate of noncompliance, or in failing to issue
33 a withdrawal of a certificate of noncompliance, the commission
34 shall issue a withdrawal of a certificate of noncompliance to
35 the appropriate licensing authority.

EXPLANATION

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2 This bill creates a means by which the college student aid
3 commission may request that a state licensing agency deny,
4 revoke, deny renewal, or suspend a license authorized by the
5 laws of this state to any person who has defaulted on an
6 obligation owed to or collected by the commission.

7 The bill establishes procedures for issuing notice to a
8 person who has defaulted on an obligation owed to or collected
9 by the commission, for the scheduling of a conference between
10 the obligor and the commission following service of notice,
11 for entering into a written agreement for payment of the
12 obligation which takes into consideration the obligor's
13 ability to pay and other criteria established by rule of the
14 commission, for the conditions under which the commission must
15 send the obligor a copy of a written decision by the
16 commission, and permitting the obligor to request a hearing.

17 If an obligor fails to respond to the commission's notice
18 of a potential license sanction, the bill requires the
19 commission to certify, in writing, to any appropriate
20 licensing authority that the obligor is not in compliance and
21 include a copy of the certificate of noncompliance.

22 The bill requires that the licensing authority include in
23 its rules, as grounds for suspension, revocation, or denial of
24 issuance or renewal of a license, the receipt of a certificate
25 of noncompliance from the commission. The supreme court is
26 directed to prescribe rules for admission of persons to
27 practice as attorneys and counselors pursuant to chapter 602,
28 article 10, which include provision, as specified in this
29 bill, for the denial, suspension, or revocation of the
30 admission for failure to repay an obligation owed to or
31 collected by the commission.

32 When issued a certificate of noncompliance, the licensing
33 authority is required under the bill to initiate procedures
34 for the suspension, revocation, or denial of issuance or
35 renewal of licensure to an obligor.

1 The bill also permits an obligor to seek a review of the
2 commission's decision and request a hearing before the
3 district court in the obligor's county of residence.

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