

Oregon Student Loan Servicer Regulations

Licensing Requirements. The regulations establish requirements relating to the submission of specific materials for the license application and renewal. However, an applicant that services a student loan under a contract with the U.S. Secretary of Education under 20 U.S.C. §1087f is automatically granted a license upon payment of the prescribed application or renewal fee if it (1) identifies a registered agent in Oregon or appoints the Director as the applicant's registered agent; and (2) notifies the Director in writing within seven days after the date on which the contract with the U.S. Secretary of Education under 20 U.S.C. §1087f expires or terminates.

The regulations also establish requirements relating to:

- Annual reports. Licensees must annually submit, by August 1, a report containing a detailed breakdown of the licensee's portfolio of student loan servicing rights for Oregon, by borrower. The information should reflect the composition of the portfolio based on student loan servicing rights owned and aggregate number of loans and unpaid principal balance of all student loans segregated by subservicer. Licensees must also submit, 90 days after the end of the fiscal year, a copy of the licensee's most recent consolidated annual financial statement.
- Liquidity and operating reserves. An applicant or licensee must maintain liquidity, operating reserves, and a tangible net worth of at least \$250,000, unless the Director waives or adjusts such requirement.
- Bonds. Every applicant must file a corporate surety bond or irrevocable letter of credit in the amount of \$30,000.
- Criteria that the Department will use to determine financial responsibility of applicants and control persons.
- The correction of deficiencies associated with a license application, renewal, filing, or amendment.
- Licensing for branch offices.
- License renewal requests.
- Application and renewal fees, annual assessment payments (based on the licensee's pro rata share of costs and expenses incurred by the Department to run the Student Loan Servicing Program), and examination charges.
- The use of an assumed business name.

Student Loan Servicer Duties and Prohibitions. Except as otherwise required under federal law, in a federal student loan agreement, or in a contract between the federal government and a student loan servicer, the student loan servicer must:

- Assess any fee that the servicer may assess against a borrower within 45 days after the borrower incurs the fee.
- Accept and credit, or treat as credited, to the borrower's account all amounts the servicer receives at the address to which the borrower has been instructed to send student loan payments or notifications of payment. The servicer must credit the payment, or treat the payment as credited, within one business day after receiving the payment or notification of payment if the borrower has provided sufficient information to credit the account. If the servicer uses the scheduled method of accounting and receives a regularly scheduled payment before the scheduled due date, the servicer must credit the payment to the borrower's account not later than the scheduled due date.
- Promptly correct any errors the servicer makes and refund any fees the person assesses against the borrower in error.
- Maintain adequate records for not less than two years after a final payment on a student loan or after the person assigns the student loan, whichever occurs first, of: (A) each student loan transaction; (B) communications with borrowers other than transactions, such as complaints, complaint resolutions, counseling; or (C) business records, including but not limited to board meeting minutes and policy documents related to servicing student loans.
- Within five days of a request of the director of the Department of Consumer and Business Services, or the within the time the director specifies in the request, make the records available to the director or send the records to the director in the manner the director specifies by rule.

In addition, a student loan servicer must respond to a consumer complaint or a communication from the student loan ombudsman within 30 calendar days or within a reasonable time specified in the communication.

The statute requires a licensee to display a copy of the license at the licensee's principal place of business and at each branch office in Oregon at or from which the licensee services a student loan. The regulations allow the licensee to meet this requirement by posting a form provided by the Department completed with current and valid NMLS licensing information. The licensee is required to prominently display their NMLS number on their website.

The regulations also list a number of prohibited acts, many of which relate to fraudulent, unfair, deceptive, or abusive acts or practices. For example, a student loan servicer must not make or file with the Department or another state agency, or cause to be made or filed with the Department, a statement, report or document that the person knows is false in any material respect or manner.

Licensee Notifications. A licensee must also notify the Director within the 10 days of the occurrence of the following:

- Filing for bankruptcy or reorganization;

- The licensee or a director, member, officer, manager, partner, control person or registered agent becomes subject to an indictment related in any manner to the licensee's activities;
- The licensee receives notice of a final order issued in Oregon or another state that:
 - Demands that the licensee cease and desist from any act;
 - Suspends or revokes a license or registration; or
 - Constitutes any other formal or informal regulatory action against the licensee;
- The licensee ceases doing business or ceases servicing student loans; or
- Any change in assumed business name registered with Secretary of State.

A licensee must notify the Director at least 30 days before:

- Closing its principal place of business or a licensed branch;
- Opening a branch office that the licensee did not list in an application; or
- Changing the registered agent.

A licensee must notify the Director within 30 days following:

- The appointment, resignation or change in licensee's directors, members, officers, managers, partners, control persons or registered agent and provide the new address and title of any new director, member, officer, manager, partner, control person or registered agent;
- Any changes in the information required on the licensee application form; or
- Any other material changes to information submitted in license application.

Exemptions. The following entities are exempt from the licensing requirements:

- A financial institution, as defined in Or. Rev. Stat. Ann. § 706.008;
- A financial holding company or bank holding company, both as defined in Or. Rev. Stat. Ann. § 706.008, if the financial holding company or bank holding company does no more than control an affiliate or subsidiary, as defined in 12 U.S.C. §1841(d), and does not engage in business as a student loan servicer;
- An attorney who is licensed or otherwise authorized to practice law in Oregon if the attorney services a student loan only incidentally in the course of practicing law;
- A public body, as defined in Or. Rev. Stat. Ann. § 174.109;

- A public university listed in Or. Rev. Stat. Ann. § 352.002;
- A community college, as defined in Or. Rev. Stat. Ann. § 341.005;
- The Oregon Health and Science University;
- A nonprofit, private, post-secondary institution that the Higher Education Coordinating Commission has authorized to confer academic degrees under Or. Rev. Stat. Ann. §§ 348.594 to 348.615; and
- A state agency or a private nonprofit institution or organization that has an agreement with the United States Secretary of Education under section 428(b) of the Higher Education Act of 1965 (20 U.S.C. § 1078(b)), solely to the extent of the agency's, institution's or organization's actions as a guarantor that engages in averting defaults.