

§16-109. Requirements for collecting on private education loan debt

1. Private education loan collection. This section applies to a private education loan collection action that is maintained by a private education lender or a private education loan collector.

[PL 2021, c. 357, §2 (NEW).]

2. Initial collection communication with borrower. In addition to any other information required under applicable federal or state law, a private education loan collector shall provide in the first written collection communication with the borrower, and at any other time the borrower requests, the information listed under subsection 4.

[PL 2021, c. 357, §2 (NEW).]

3. Initiation of action. A private education lender or a private education loan collector may not initiate a private education loan collection action unless the private education lender or private education loan collector possesses all of the information listed under subsection 4.

[PL 2021, c. 357, §2 (NEW).]

4. Information required. A private education lender or a private education loan collector shall introduce the following information as evidence in a private education loan collection action:

A. The name of the owner of the private education loan; [PL 2021, c. 357, §2 (NEW).]

B. The original creditor's name at the time of default, if applicable; [PL 2021, c. 357, §2 (NEW).]

C. If the original creditor used an account number to identify the private education loan at the time of default, the original creditor's account number used to identify the private education loan at the time of default; [PL 2021, c. 357, §2 (NEW).]

D. The amount due at default; [PL 2021, c. 357, §2 (NEW).]

E. An itemization of interest and fees, if any, incurred after default and claimed to be owed and whether the interest and fees were imposed by the original creditor or any subsequent owners of the private education loan; [PL 2021, c. 357, §2 (NEW).]

F. The date the private education loan was executed; [PL 2021, c. 357, §2 (NEW).]

G. The date of the first partial payment or the date of the first missed payment, whichever is earlier; [PL 2021, c. 357, §2 (NEW).]

H. The date and amount of the last payment, if applicable; [PL 2021, c. 357, §2 (NEW).]

I. Any payments, settlement or financial remuneration of any kind paid to the creditor by a guarantor, cosigner or surety and the amount of payment received; [PL 2021, c. 357, §2 (NEW).]

J. A copy of a self-certification form and any other needs analysis conducted by the original creditor prior to execution of the loan; [PL 2021, c. 357, §2 (NEW).]

K. The names of all persons that owned the private education loan after the time of default, if applicable, and the date of each sale or transfer; [PL 2021, c. 357, §2 (NEW).]

L. A log of all collection attempts made in the last 12 months including the date and time of all calls and written communications; [PL 2021, c. 357, §2 (NEW).]

M. A statement as to whether the creditor is willing to renegotiate the terms of the loan; [PL 2021, c. 357, §2 (NEW).]

N. Copies of all settlement documents made in the last 12 months or a statement that the creditor has not attempted to settle or otherwise renegotiate the loan prior to the private education loan collection action; [PL 2021, c. 357, §2 (NEW).]

O. Documentation establishing that the creditor is the owner of the private education loan at issue. If the private education loan was assigned more than once, the creditor must introduce as evidence

each assignment or other writing evidencing the transfer of ownership of the specific individual private education loan to establish an unbroken chain of ownership, beginning with the original creditor to the first subsequent creditor and each additional creditor. Each assignment or other writing evidencing transfer of ownership or the right to collect must contain the original creditor's account number, redacted for security purposes to show only the last 4 digits, of the private education loan purchased or otherwise assigned, must contain the date of purchase and assignment and must clearly show the borrower's correct name associated with the original account number. The assignment or other writing attached must be the assignment or other writing by which the creditor or other assignee acquired the private education loan and not a document prepared for litigation; [PL 2021, c. 357, §2 (NEW).]

P. A copy of all pages of the contract, application or other documents evidencing the borrower's liability for the private education loan, stating all terms and conditions applicable to the private education loan. If a signed writing evidencing the original private education loan does not exist, a copy of a document provided to the borrower before default demonstrating that the private education loan was incurred by the borrower and including all terms and conditions applicable to the private education loan must be introduced as evidence; and [PL 2021, c. 357, §2 (NEW).]

Q. An affidavit stating that a representative of the creditor personally reviewed for factual accuracy the evidence under this subsection submitted to the court and confirmed the factual accuracy of the allegations set forth in the complaint and any supporting affidavits or affirmations filed with the court, as well as the accuracy of any notarizations contained in the supporting documents filed in the action. [PL 2021, c. 357, §2 (NEW).]

[PL 2021, c. 357, §2 (NEW).]

5. Statute of limitations. In addition to any other requirement of law or rule, a court may not enter a judgment in favor of a private education lender or a private education loan collector unless the court finds that the applicable statute of limitations for the action on the private education loan owned by the creditor has not expired.

[PL 2021, c. 357, §2 (NEW).]

6. Judgment. In addition to any other requirement of law or rule, a court may not enter a judgment in favor of a private education lender or a private education loan collector in a collection action under this section unless the private education lender or private education loan collector introduces the evidence under subsection 4 in accordance with applicable rules of evidence.

[PL 2021, c. 357, §2 (NEW).]

7. Violation. Failure to produce to a borrower upon request any documentation described in subsection 4 is a violation of the Maine Unfair Trade Practices Act.

[PL 2021, c. 357, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 357, §2 (NEW).

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