

§16-110. Violations

1. Fine. The superintendent may impose a fine of up to \$25,000 on a person for any violation of this Article. Each violation of this Article or of any rule adopted pursuant to section 16-111 is a separate offense for the purposes of this section.

[PL 2021, c. 357, §2 (NEW).]

2. Suspended from operating in State. If the superintendent finds that a person has knowingly violated any provision of this Article and the violation caused financial harm to a student, the superintendent may suspend the person from operating as or bar the person from being a stockholder, officer, director, partner, owner or employee of a private education lender for a period of up to 10 years.

[PL 2021, c. 357, §2 (NEW).]

3. Crime. A violation of this Article is a Class E crime.

[PL 2021, c. 357, §2 (NEW).]

4. Private right of action. A person who suffers damage as a result of the failure of another person to comply with this Article may bring an action against the other person for any of the following:

A. Actual damages or \$500, whichever is greater; [PL 2021, c. 357, §2 (NEW).]

B. An order enjoining the methods, acts or practices; [PL 2021, c. 357, §2 (NEW).]

C. Restitution of property; [PL 2021, c. 357, §2 (NEW).]

D. Punitive damages; [PL 2021, c. 357, §2 (NEW).]

E. Attorney's fees; and [PL 2021, c. 357, §2 (NEW).]

F. Any other relief that the court determines proper. [PL 2021, c. 357, §2 (NEW).]

[PL 2021, c. 357, §2 (NEW).]

5. Purporting to act as agent for an entity exempt from this Article. A person is subject to the requirements of this Article notwithstanding the fact that the person purports to act as an agent or in another capacity for an entity that is exempt from this Article, if, among other things:

A. The person holds, acquires or maintains, directly or indirectly, the predominant economic interest in the private education loan; [PL 2021, c. 357, §2 (NEW).]

B. The person markets, brokers, arranges or facilitates the loan and holds the right, requirement or right of first refusal to purchase the private education loan or a receivable or interest in the private education loan; or [PL 2021, c. 357, §2 (NEW).]

C. The totality of the circumstances indicate that the person is the private education lender and the transaction is structured to evade the requirements of this Article. Circumstances that weigh in favor of a person being a private education lender include, without limitation, when the person:

(1) Indemnifies, insures or protects an entity exempt from this Article for any costs or risks related to the private education loan;

(2) Predominantly designs, controls or operates the private education loan program; or

(3) Purports to act as an agent or in another capacity for an entity exempt from this Article while acting directly as a private education lender in other states. [PL 2021, c. 357, §2 (NEW).]

[PL 2021, c. 357, §2 (NEW).]

6. Remedies. Any violation of this Article is subject to the remedies provided in this section in addition to remedies otherwise provided by law.

[PL 2021, c. 357, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 357, §2 (NEW).

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