Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Business & Financial Services Committee

HB 1923

Brief Description: Regulating income share agreements.

Sponsors: Representatives Zeiger, Bergquist, Kirby, Haler, Hargrove and Parker.

Brief Summary of Bill

- Creates a regulatory structure for income share agreements, an alternative to student loans, through which individuals agree to pay a percentage of their future income in exchange for funds provided to pay for higher education.

Hearing Date: 2/17/15

Staff: Linda Merelle (786-7092).

Background:

Federal Student Loans and Repayment Plans.

The federal government offers both grants and loans to support students to access and complete higher education. Federal loans available to undergraduates include the Subsidized and Unsubsidized Stafford Loans, the Perkins Loan made through a college or university, and loans made to parents on behalf of dependent undergraduate students. Federal loans are also available to graduate students.

All federal student loans can be consolidated into a consolidation loan after a borrower leaves school. The interest rate on the loan is fixed, and is set at the weighted average of the interest rates on the underlying loans. A standard repayment plan is for 10 years. Graduated repayment plans can have a 10- to 30-year repayment term. Consolidation loans also offer extended repayment terms depending on the total value of the loan.

In addition, students may also be eligible for a federal income-driven repayment plan that allows borrowers to make monthly payments based on their income if their student debt is higher than

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their annual income or a significant portion of their annual income. An income-driven repayment plan sets a monthly payment as a percentage of the person's discretionary income rather than a portion of the debt. The payment amount will vary depending on the plan and when the person took out the federal student loan.

There are three income-driven repayment plans available. Under the Income-Based Repayment Plan (IBR Plan), non-new borrowers generally pay 15 percent of their discretionary income for 25 years. New borrowers on or after July 1, 2014, pay 10 percent for 20 years. Under the Pay As You Earn Repayment Plan (Pay as You Earn Plan), borrowers generally pay 10 percent of their discretionary income for 20 years. Under the Income-Contingent Repayment Plan (ICR Plan), the borrowers pay the lesser of 20 percent of their discretionary income for 25 years or the amount they would pay on a fixed-payment plan over the course of 12 years, adjusted according to income. At the end of any of these plans, any unpaid loan balance is forgiven.

If a borrower's calculated IBR Plan or Pay As You Earn Plan payment amount, which is based on family size and income, is more than what he or she would pay under the 10-year standard repayment plan, the borrower does not qualify. All of the federal student loans, except federal student loans to parents, are eligible for the IBR Plan. Federal graduate or professional loans are also eligible.

Public Service Loan Forgiveness Program.

In addition to the income-driven repayment plan options, a person who decides to work full-time in a public service job may qualify for having the remaining balance of their loans forgiven. That person needs to have made 120 qualifying payments on those loans while they have been employed full-time as a public service employee. Public service employment includes a federal, state, or local government agency, entity, or organization or a not-for-profit 501(c)(3) organization. Full-time status means at least 30 hours per week.

Some loans are not eligible for this option unless they are consolidated into a Direct Consolidation Loan. Only the payments made under the Direct Consolidation Loan count towards the 120 qualifying payment requirement.

A public service employee making payments under an income-driven repayment plan would qualify for loan forgiveness for any remaining balance of student loan debt at the end of 10 years of payments, rather than 20 or 25 years.

Summary of Bill:

An income share agreement (Agreement) is an alternative method of financing postsecondary education or other work force development, or similar activities. The Originators of these Agreements (Originators) are regulated by the Department of Financial Institutions (DFI). An individual enters into an Agreement with an Originator. Each Agreement must:

- specify the percentage of future income which the individual is obligated to pay;
- specify the maximum duration of the obligation, which may not exceed 360 months (30 years), unless the duration has been extended, as allowable under the provisions of the act;

- specify that at least the first $10,000 of an individual's income is exempt when determining annual income, and this amount must be adjusted annually to reflect changes in the Consumer Price Index; and
- specify the terms and conditions by which the individual may extinguish his or her obligations before the end of the payment period specified in the Agreement.

Each Agreement must disclose in clear and simple language:
- the definition of "income" to be used for the purposes of calculating the individual's obligation;
- the percentage of income committed;
- the duration of the obligation and the circumstances under which it may be extended;
- that the Agreement is not a debt instrument;
- that the amount paid under the Agreement may be more or less than payments made on behalf of the individual;
- that the Originator has no rights regarding the individual's actions relating to education or employment pursuits; and
- whether payments may be accelerated and under which conditions.

No individual may enter into an Agreement if the total percentage of his or her future income obligated under the Agreement and any other Agreement exceeds 15 percent of future income. The duration of the Agreement may be extended for a period of time equal to the time that the individual's income is less than the exempt amount established in the Agreement. In the event of a sale of the Agreement by the Originator, the buyer is subject to the regulatory requirements that govern the Agreements.

License Required.

No person may originate an Agreement without first obtaining and maintaining a license. If an Agreement is originated by a person without a license, any fees or interest charged in the making of the Agreement must be refunded. The applicant for a license must submit an application, any license fee, and an investigation fee as determined by rule of the Director of the DFI (Director) to be sufficient to cover the Director's costs in administering the provisions under the act. Each applicant must file and maintain a surety bond.

In addition to the application and fee requirements, an applicant or any of its officers or principals must be free of any gross misdemeanor convictions involving dishonesty or financial misconduct or any felony violations of the banking laws of the United States within seven years of filing an application. The Director may issue more than one license to the same licensee for different business addresses.

Regulatory Structure.

The regulatory structure and licensing requirements for Agreements parallel the structure and requirements under the Consumer Loan Act, which authorizes the DFI to regulate consumer loan companies who conduct business in Washington.

The Director may deny, revoke, or suspend licenses for failure to meet the requirements of the act, including the discovery of a fact or condition that existed at the time of the original application that would have allowed the Director to deny the original application.

The Director may impose fines of up to $100 per day, per violation of the act or failure to comply with any order or subpoena issued by the Director. The Director may order a licensee or employee to cease and desist from conducting business in a manner that is injurious to the public or that violates any provision of the act and may make a refund or restitution to a borrower or other person who is damaged as a result of a violation.

The Director must have free access to the offices and places of business, books, accounts, papers, documents, and other information during normal business hours, and may require the production of such documents.

The Agreements entered into under this act are exempt from the usury limitations under RCW 19.52.

Discretionary Income.

For an IBR Plan and a Pay As You Earn Plan, discretionary income is the difference between a borrower's income and 150 percent of the poverty guideline based on family size and state of residence. For an ICR Plan, discretionary income is the difference between the borrower's income and 100 percent of the poverty guideline based on family size and state of residence.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.