

SENATE BILL REPORT

SB 6610

As of February 18, 2016

Title: An act relating to establishing a student loan bill of rights.

Brief Description: Establishing a student loan bill of rights.

Sponsors: Senators Liias, Frockt, Rolfes, Carlyle, Nelson, Billig, Mullet, Conway, Darneille, Keiser, McAuliffe and Habib.

Brief History:

Committee Activity: Higher Education: 2/18/16.

SENATE COMMITTEE ON HIGHER EDUCATION

Staff: Evan Klein (786-7483)

Background: In May 2015, the Consumer Financial Protection Bureau (Bureau) joined with the Departments of Education and Treasury to launch a public inquiry into student loan servicing practices. The inquiry detailed issues related to customer service, payment processing, and servicing transfer practices. In its report on the inquiry, the Bureau recommended consistent standards for the student loan servicing market, strengthened servicer communications, increased accountability and oversight, and public access to robust data on student loan performance.

According to the Bureau report, more than 41 million Americans collectively owe more than \$1.2 trillion in student loan debt. The Bureau estimates that more than one in four student loan borrowers are now delinquent or in default on a student loan. Student loan servicers are a link between borrowers and lenders. Servicers manage borrowers' accounts, process monthly payments, manage enrollment in alternative repayment plans, and communicate directly with borrowers, including borrowers in distress. According to the Bureau, there are no consistent market-wide standards for student loan servicing and servicers generally have discretion in determining policies related to many aspects of servicing operations.

In September 2015, Connecticut passed an act establishing a student loan bill of rights. The act created a student loan ombudsman in Connecticut and provided the Connecticut Department of Banking with authority to license and regulate student loan servicers operating in the state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Student Loan Ombuds. The Washington Student Achievement Council (WSAC) must designate a student loan ombuds (Ombuds) within the office. The Ombuds will be tasked with:

- receiving, reviewing and referring complaints from student loan borrowers;
- compiling and analyzing data on student loan borrower complaints;
- assisting student loan borrowers with understanding their rights and responsibilities under the terms of their loans;
- providing information about the problems and concerns of student loan borrowers to the public and state government;
- analyzing and monitoring federal, state and local laws relating to student loan borrowing;
- disseminating information concerning the availability of ombuds services; and
- taking other actions necessary to fulfill the Ombuds' duties.

The Ombuds must establish in consultation with WSAC, a student loan borrower education course.

WSAC must report to the Legislature by December 31, 2016 and annually thereafter, about the progress of the Ombuds office.

Student Loan Servicers. Student loan servicers are any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower. Student loan borrowers include any resident of Washington who has received or agreed to pay a student loan, or any person who shares responsibility with such a resident.

Student Loan Servicer Licensing. No person may act as a student loan servicer without obtaining a license from the Director of the Department of Financial Institutions (Director). Banks, out-of-state banks, the Washington state credit union, federal credit unions, or out-of-state credit unions are exempt from student loan servicer licensing.

Applications for licensure must include a financial statement prepared by a certified public accountant, and a criminal background check of the applicant and any partners, officers, directors, members, or principal employees with whom they own their company. The director must investigate the financial condition and responsibility, financial and business experience, and the character and general fitness of the applicant. The applicant must pay fees as part of the application to support the investigation.

Licenses must be renewed every two years.

A student loan servicer must notify the Director of any change of name or change of place of business within Washington. A license is not transferable or assignable.

Student Loan Records. Every student loan servicer, and any entity or person specifically exempted from licensure, must maintain adequate records of each student education loan transaction for at least two years following the final payment of the loan, or the loans assignment. If requested by the Director, each student loan servicer must make such records available to the Director.

Prohibited Acts. No student loan servicer may:

- defraud or mislead student loan borrowers;
- engage in any unfair or deceptive practice;
- obtain property by fraud or misrepresentation;
- knowingly or recklessly misapply student loan payments to the outstanding balance of a student loan;
- knowingly or recklessly provide inaccurate information to a credit bureau;
- fail to report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually;
- refuse to communicate with an authorized representative of the student loan borrower; or
- negligently make any false statement of material fact.

Investigations. The Director, in consultation with the Attorney General, may conduct investigations and examinations for purposes of:

- licensing;
- licensed student loan servicer compliance; and
- investigation of violations or complaints.

To carry out investigations, the Director may:

- retain attorneys or other professional services;
- enter into agreements with other government officials or regulatory associations;
- use analytical systems;
- accept and rely on third party investigation reports; and
- accept independent audit reports.

The Director may suspend, revoke or refuse to renew any license if the licensee violates provisions of this act.

Consumer Protection Act. Provisions relating to the student loan servicers are considered matters vitally affecting the public interest, and the consumer protection act applies.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Borrowers over 65 years old owe over \$18 billion in the US. Around 6 out of 10 students in Washington graduate with debt. Around 15 percent of those students have over \$100,000 in student debt. This issue affects both young people and others in society. Student loan issues affect all income levels and age brackets, as well as co-signers of loans. This bill would create stronger consumer protections for student borrowers. There are a couple of large student loan servicers that service thousands of loans without the regulations in place for other banks and financial institutions. The Ombuds office would be an advocate for students, but would also be an educator. The Ombuds would

have to create an education course for student loan borrowers. Students don't understand the terms in their student loan agreements. Many students don't understand their loan terms or the difference between student loans. This bill would fill the gap in federal loan servicing standards. Over the years, for-profit schools have steered students into private high-cost loans that target service-members and veterans and provide less protections than federal student loans. Veterans are more likely to take loans out to attend for-profit institutions. These for-profit institutions tend to perform worse than public or non-profit schools. The morass of the student loan and lender environment can be difficult to navigate, even for attorneys working in the field. The Attorney General's Office wants to ensure that student navigating the student loan borrower process are protected. This bill would make it easier for the AGO to attack fraudulent and deceptive practices. Student loan education is not consistent and some students are not getting educated about their loans at an early enough time. This bill would create a consistent education course for students at any campus in Washington State.

Persons Testifying: PRO: Senator Liias, Prime Sponsor; Robert Rose, Rolando Avila, Statewide Poverty Action Network/community member; Sarah Reyneveld, Attorney General's Office/Assistant Attorney General; Rachelle Sharpe, WA Student Achievement Council; Elissa Goss, Washington Student Association; Christina Henry, National Association of Consumer Attorneys; Abner Pagunuran, Washington Student Association/Bellevue College; Josie Ellison, Associated Students of Western Washington University; Anna Nepomuceno, Legislative Liaison Associated Students University of WA Tacoma.

Persons Signed In To Testify But Not Testifying: No one.