

SENATE BILL REPORT

3SHB 1169

As of February 15, 2018

Title: An act relating to student opportunity, assistance, and relief for student loans.

Brief Description: Enacting the student opportunity, assistance, and relief act.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Orwall, Pollet, Appleton, Goodman, Tarleton, Bergquist, Stanford, Fitzgibbon, Doglio and Wylie).

Brief History: Passed House: 1/31/18, 79-15.

Committee Activity: Higher Education & Workforce Development: 2/15/18.

Brief Summary of Bill

- Repeals multiple provisions allowing suspension of a professional license due to student loan default.
- Changes the judgment interest rate for unpaid private student loan debt to 2 percentage points above the prime rate, unless the judgment interest rate is specified in the contract.
- Increases the bank account and wage garnishment exemptions for judgments on private student loan debt.
- Modifies the forms regarding garnishment to specify whether it is for private student loan debt and, if so, to notify the debtor of their exemption rights for private student loan debt.

SENATE COMMITTEE ON HIGHER EDUCATION & WORKFORCE DEVELOPMENT

Staff: Kellee Gunn (786-7429)

Background: Student Debt. In Washington State, student education loan borrowers have two options to borrow money to pay for higher education: federal education loans or private education loans.

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.

Federal education loans include the William D. Ford Federal Direct Loan Program and the Federal Perkins Loan Program. The limit on the federal education loan is determined by whether the student is an independent or dependent student and whether the student is pursuing an undergraduate or graduate degree. Federal loans have fixed interest rates and offer a number of repayment options.

Private, individual lenders may offer private education loans. Interest rates on these loans may differ depending on the borrower's credit score and other factors. Other than refinance and consolidation, there are no other repayment options for private education loan borrowers. All student education loans are difficult to discharge in bankruptcy.

Student Loan Default. After the first day after a scheduled payment has passed without payment, a loan is considered delinquent. After 90 days of being delinquent, the loan servicer alerts the three major national credit bureaus. After 270 days, a federal education loan typically goes into default. When in default, the entire unpaid amount of the loan plus interest is immediately due and the ability to change to a different repayment plan, or receive deferment or forbearance, is gone. Additionally, wages are garnished, and tax refunds and federal benefit payments withheld.

Private education loans vary, but average 90 to 180 days of delinquency before a borrower defaults. The loan is considered consumer debt. Upon default, the private education loan is sent to a collection agency, and the lender may sue the borrower to obtain a judgment, in which case a judgment interest rate is added onto the loan. The judgment interest rate is either the rate set forth in the contract or 12 percent.

Wage Garnishment and Personal Property Exempt From Execution. A judgment may be used to obtain a writ of garnishment to garnish the education loan borrower's bank accounts and wages. Under current law, private student loan debt is considered consumer debt, and a borrower is allowed an exemption of \$500 for all bank accounts, savings and loan accounts, stocks, bonds, or other securities. Wages exempt from garnishment is the greater of the following:

- 35 times the federal minimum hourly wage; or
- 75 percent of disposable earnings.

Certain personal property may be exempt from execution, attachment, and garnishment. For debts owed to state agencies, \$200 in value may consist in all bank accounts, savings and loan accounts, stocks, bonds, or other securities; for other debt the maximum in those accounts is may not exceed \$500.

A continuing lien on earnings may be issued on education loan borrowers in default. The garnishment includes any additional court and attorney fees. Wages garnished shall bear interest from the date of entry at 2 percentage points above the prime rate unless the judgement founded by a written contract specifies a certain interest rate.

Professional License Suspension for Defaulted Education Loans. In 1996, legislation was enacted that allowed an agency or board to suspend a borrower's license who defaults on a federal or state-guaranteed educational loan if reported by the lending agency. Professional license suspension for educational loan default applies to lawyers, accountants, architects,

auctioneers, cosmetologists, hair designers, barbers, manicurists, estheticians, assisted living facility providers, contractors, embalmers and funeral directors, engineers and land surveyors, escrow agents, birthing center operators, poison information specialists, real estate brokers and managing brokers, landscape architects, water well construction operators, plumbers, real estate appraisers, court reporters, fire sprinkler system contractors, private investigators, security guards, process servers, bail bond agents, boxers, martial artists, wrestlers, teachers, and health care professionals.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Striking Amendment): Professional License Suspension for Defaulted Education Loans. Except for escrow agents, the suspension of professional licenses or certificates of education loan borrowers who have defaulted on their loans is repealed.

Wage Garnishment and Personal Property Exempt from Execution. Private student loan is defined under the general provisions regarding enforcement of judgements.

For unpaid private student loan debt, the judgment interest rate is 2 percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day of the calendar month immediately preceding the date of entry, unless the interest rate is specified in the loan contract and set forth in the judgment.

The exemption allowed for bank accounts, savings and loan accounts, stocks, bonds, or other securities for private student loan debt is \$2,500, regardless of the number of existing separate accounts, stocks, bonds, or securities. For garnishment based on a judgment issued for the collection of private student loan debt, wages exempt from garnishment is the greater of the following:

- 50 times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or
- 85 percent of disposable earnings.

Any writs of garnishment or writ for continuing lien on earnings that are a result of student loan default must have noticeable language that indicates that.

The form notifying a debtor of garnishment and their exemption rights must state the bank account and wage garnishment exemptions for private student loan debt, if the debt was for private student loans.

A cell phone, personal computer, and printer are exempt from execution, attachment, and garnishment.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Striking Amendment: PRO: Washington has \$24 billion of student debt and women hold 63 percent of that debt, and single mothers are more likely to default on their student loan debt. The bill is about giving individuals tools and support so a person can pay off their student loans and support their families. The national average amount of wage garnishment is 15 percent, but Washington State imposes 25 percent. This bill aligns Washington with the national average. This bill will give people the tools they need to pay back their student loans.

Washington State University supports this, especially the provision that suspends a person's professional licenses if they default on their student loans. The current law is counterintuitive, in that it damages the livelihood of the borrower, but also the lender cannot get their money back. This bill is a commonsense solution. The University of Washington supports this bill, especially the revocation of professional license suspensions. Medical, engineering, and law students take on considerable loans to obtain their degrees, and although some go into lucrative jobs in the private sector, others go into lower paying jobs and cannot pay back their loans as easily. Risk of student loan default is higher. This is a career damaging policy.

Persons Testifying: PRO: Representative Tina Orwall, Prime Sponsor; Ernie Tao, Associated Students of the University of Washington; Matthew Morrow, Associated Students of Washington State University.

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