

SB 279 -1, -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/19, 4/3

WHAT THE MEASURE DOES:

Requires student loan servicers to be licensed by the Department of Consumer and Business Services (DCBS). Provides specific guidance on process for servicing student loans. Prohibits student loan servicer from using any device, scheme, or artifice to defraud another person, or to knowingly making untrue statements of material fact or omit statements of material fact. Provides specific and general authorities to DCBS to supervise and regulate loan servicers. Outlines process for DCBS to obtain and investigate complaints about student loan servicers. Creates ombudsman position within DCBS. Provides exemptions to licensing requirements for financial institutions, consumer finance entities, holding companies, state or federal agencies, and certain qualifying attorneys. Authorizes DCBS to order an unlicensed person to cease and desist from acts relating to servicing a loan without a license. Specifies process for obtaining license, including providing fingerprints of agents and managers, the address of each branch of offices within the state, and names of managers of branch offices, and a surety bond or letter of credit. Provides parameters for branch manager information, including convictions or pleas. Provides grounds for denial or revocation of license, including not meeting the criteria for licensure, engaging in conduct violates state or federal law, or conduct that is fraudulent, dishonest, or deceptive, or failing to comply with a written direction from DCBS. Requires license be posted in principal place of business and each branch office. Requires licensee to designate a registered agent within the state or maintain a principal place of business. Requires yearly renewal of license. provides standards for maintaining liquidity, operating reserves, and tangible net worth to adequately meet costs, expenses, and financial requirements. Allows DCBS to take and hold property or assets within state until licensee returns to compliance. Provides procedure for taking and retaining property. Requires 30 days notice be given by licensee to DCBS of new branch location or closing of branches. Requires notice within ten days of filing for bankruptcy or reorganization, indictment of manager or agent on matters relating to loan servicing, change of business name, cessation of operations in state, or order from other state that halts loan servicing activity in other state. Defines terms. Becomes operative January 1, 2020. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Requires Higher Education Coordinating Commission to establish and operate a student loan counseling program for the purpose of informing borrowers of their rights and responsibilities in regards to student loan agreements, advising borrowers on how to work with a servicer to modify the terms of the loan agreement, and to assist borrowers in avoiding default. Removes consumer finance company from those required to obtain licensure. Updates list of exempted entities to include public bodies, universities, and post-secondary educational institutes. Exempts attorneys who services a loan only incidentally in the course of the practice of law. Removes fingerprinting requirement of registered agents of servicer. Allows Director to deny, revoke, or decline to renew a license based on revocation of a license in another jurisdiction. Removes liquidity safeharbors relating to deferral regulation or home state rules. Require retention of student loan servicing records for two years and requires inspection of records within 5 days of request. Requires response to student loan servicing complaint within 21 days of consumer's complaint.

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-3 Requires Higher Education Coordinating Commission to establish and operate a student loan counseling program for the purpose of informing borrowers of their rights and responsibilities in regards to student loan agreements, advising borrowers on how to work with a servicer to modify the terms of the loan agreement, and to assist borrowers in avoiding default. Removes consumer finance company from those required to obtain licensure. Updates list of exempted entities to include public bodies, universities, and post-secondary educational institutes. Exempts attorneys who services a loan only incidentally in the course of the practice of law. Removes fingerprinting requirement of registered agents of servicer. Allows Director to deny, revoke, or decline to renew a license based on revocation of a license in another jurisdiction. Removes liquidity safeharbors relating to deferral regulation or home state rules. Require retention of student loan servicing records for two years and requires inspection of records within 5 days of request. Requires response to student loan servicing complaint within 21 days of consumer's complaint. Exempts nonprofits and state agencies acting as guarantor of student loans from licensing, and application requirements as long as the agency or nonprofit acts as a guarantor that engages in diversion of defaults. Specifies process for cases in which guarantor becomes loan servicer. Requires payment of fee by guarantor and identification of a registered agent. Removes requirement that Director of DCBS file inventory with court.

BACKGROUND:

Analysts report there are over 44 million Americans with student loan debt, totally \$1.5 trillion. Billing and processing payments for student loans are handled by a variety of loan servicers.

Senate Bill 279 requires student loan services to obtain a license from the Department of Consumer and Business Services (DCBS). The measure gives DCBS authority to regulate student loan services and a provides a variety of requirements for a servicer before they do business in the state.