

ASSEMBLY THIRD READING  
AB 376 (Mark Stone)  
As Amended May 16, 2019  
Majority vote

## **SUMMARY:**

Creates the Student Borrower Bill Of Rights (the Act) imposing new requirements on persons engaged in student loan servicing within California, as specified.

### **Major Provisions**

#### *Chapter 1. Student Borrower Bill Of Rights:*

- 1) Prohibits a student loan servicer, as defined, from engaging in abusive acts or practices when servicing a student loan within California.
- 2) Defines an act or practice as abusive if it does either of the following:
- 3) Provides appropriate definitions to facilitate the Act, including, but not limited to:

#### *Chapter 2. Rules of the Road:*

Establishes standards for student loan servicers in California, requiring them to:

- 1) Post and process student loan payments in a timely manner.
- 2) Apply overpayments in a manner that is in the best financial interest of the borrower.
- 3) Apply partial payments in a manner that minimizes negative impacts to borrowers.
- 4) Ensure past dues fees are reasonable and proportional to the total costs of the loan, as specified.

#### *Chapter 3. Enforcement:*

- 1) Requires anyone engaged in servicing a student loan comply with state and federal laws, including the provisions of the Act.
- 2) Provides that any consumer who suffers damage because of the failure of a person engaged in student loan servicing, as defined by the Act, may bring an action on their own behalf and on behalf of a similarly situated class of consumers against that person to recover or obtain damages, as specified, and as defined by the court.

#### *Chapter 4. California Student Borrower Advocate:*

Creates the Student Borrower Advocate and gives the advocate responsibilities that include receiving complaints, reviewing complaints, analyzing data, assisting borrowers, providing public information, analyzing and monitoring the development and implementation of laws and rules, as specified.

#### *Chapter 5. Spotlight on Industry Practices:*

Requires the Department of Business Oversight (DBO) monitor for risks to consumers in the student loan servicing industry. It describes the information the Commissioner may gather to complete these tasks including gathering information from servicers and reporting the data publically.

#### **COMMENTS:**

Student loan debt has climbed to become the second largest type of household debt in America. Only mortgage debt, which is generally secured by real estate, is larger. Amid ongoing discussions about the negative impacts that this level of debt has on younger student borrowers, new concerns about the negative impacts on the nation's economy have emerged. Large student debt burdens can prevent home ownership, retirement savings, entrepreneurship, an interest in careers that require extra school, or an ability to return to rural areas after graduation.

#### **According to the Author:**

With 3,780,000 student loan borrowers across California owing \$134.3 billion, it is imperative that California take a strong stance to protect borrowers against bad actors. AB 376 will ensure that California borrowers are protected and can take action if servicers violate these basic protections.

#### **Arguments in Support:**

AB 376 establishes the Student Borrower Bill of Rights, ensuring that individuals with student loan debt are given reliable information, quality customer service, and meaningful access to repayment and forgiveness programs. This groundbreaking legislation will make California the first in the nation to offer student loan borrowers the same comprehensive protections that consumers with mortgages and credit cards take for granted.

#### **Arguments in Opposition:**

The Student Loan Servicing Alliance states, "this legislation as drafted, both creates potential for more borrower confusion, would potentially increase the cost of student loans for California residents, and most importantly, does not address the real challenges that student loan borrowers face. Our members work on behalf of borrowers to enroll them into the right payment plan for their individual circumstance, while helping them avoid delinquency and default. This is best achieved in a clear and consistent regulatory environment. We would point out that California has recently passed broad legislation that is now being implemented and whose impacts are now being assessed."

#### **FISCAL COMMENTS:**

According to the Assembly Committee on Appropriations, significant special fund costs to DBO in excess of \$1 million in the first year and in excess of \$790,000 ongoing. These costs include personnel, which this committee assumes to be the Student Borrower Advocate as well as support staff and an additional attorney, as well as one-time administrative costs during initial implementation.

**VOTES:**

**ASM BANKING AND FINANCE: 9-0-3**

**YES:** Limón, Bauer-Kahan, Burke, Cervantes, Gabriel, Grayson, Mark Stone, Weber, Wicks

**ABS, ABST OR NV:** Chen, Choi, Melendez

**ASM APPROPRIATIONS: 13-4-1**

**YES:** Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas

**NO:** Bigelow, Brough, Diep, Obernolte

**ABS, ABST OR NV:** Fong

**UPDATED:**

VERSION: May 16, 2019

CONSULTANT: William Herms / B. & F. / (916) 319-3081

FN: 0000918