
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 376 (Mark Stone) - Student loan servicing

Version: June 20, 2019

Urgency: No

Hearing Date: August 12, 2019

Policy Vote: B. & F.I. 4 - 1, JUD. 7 - 1

Mandate: Yes

Consultant: Debra Cooper

Bill Summary: AB 376 would create the "Student Borrower Bill of Rights" and impose new requirements on student loan servicers.

Fiscal Impact:

- Significant, ongoing costs to the Department of Business Oversight (DBO) of \$1.6 million in the first year and \$1.2 million annually thereafter for the new position of Student Borrower Advocate, support staff for the Student Borrower Advocate, and additional examiners and legal staff. (Financial Institutions Fund)
- Unknown, potentially significant costs for DBO to contract with an economist to monitor for risks to consumers, as this is not a task that DBO currently engages in. (Financial Institutions Fund)
- Potential costs to the Department of Justice of \$289,000 in FY 2019-20 and \$501,000 ongoing, for additional personnel to investigate complaints and assist the Student Borrower Advocate in complying with the reporting requirements. (GF)

Background: The Student Loan Servicing Act (SLSA) established in 2018 (AB 2251 (Stone, 2016)) prohibits any person from engaging in student loan servicing in this state without first obtaining a license from DBO. In order to protect student loan borrowers, the SLSA imposes requirements on student loan servicers and prohibits certain practices and acts. The SLSA places oversight of these provisions with the Commissioner of DBO. These provisions do not apply to state- or federally-chartered depository institutions or industrial loan companies, a public postsecondary education institution or a private nonprofit postsecondary educational institution servicing a student loan that it extended to a borrower, a nonprofit community service organization, or a state or nonprofit private institution or organization that has an agreement with the U.S. Secretary of Education in connection with its responsibilities as a guaranty agency engaged in default aversion.

Proposed Law: This bill would create the "Student Borrower Bill of Rights" and impose new requirements on student loan servicers. Specifically, it would:

- Prohibit a person from engaging in abusive acts or practices when servicing a student loan in this state, as provided;
- Specify the actions that a student loan servicer is prohibited from doing;
- Specify the actions that a student loan servicer is required to do, except to the extent these provisions are inconsistent with federal law;

- Establish the position of the Student Borrower Advocate to receive and review complaints from student loan borrowers, as specified;
- Authorize any consumer who suffers damage as a result of the failure of a student loan servicer to comply with these provisions or federal law to bring an action on that consumer's behalf and on behalf of a similarly situated class of consumers against that student loan servicer to recover or specified remedies;
- Require the Commissioner of DBO to designate a Student Borrower Advocate within the department to provide timely assistance to any student loan borrower with any student loan, to receive and review complaints from student loan borrowers, and would require The Student Borrower Advocate to hire additional staff as necessary;
- Require complaints regarding student loan servicers not subject to licensing under the Student Loan Servicing Act to be referred to the Department of Justice (DOJ). DOJ would be authorized to investigate complaints regarding student loan servicers referred by the Student Borrower Advocate, and from the public, who may also submit complaints directly to DOJ;
- Require the Student Borrower Advocate to confer with DOJ and the Office of Student Assistance and Relief regarding the student loan servicing complaints, the proper referral processes for those complaints, and the reporting requirements of the Student Borrower Advocate;
- Specify the duties of the Student Borrower Advocate including but not limited to compiling and analyzing data; assisting student loan borrowers; monitoring federal, state, and local laws, rules, regulations, and policies; and producing an annual report submitted to the appropriate committees of the Legislature having jurisdiction over higher education and financial institutions, as specified;
- Require DBO to monitor for risks to consumers in the provision of student loan servicing, including developments in the market for those services, and to administer these provisions, as specified;
- Require the Commissioner, on a quarterly basis, to develop and publicize metrics based on data collected, as specified.

Related Legislation:

AB 38 (Stone, Chapter 379, Statutes of 2018) was a clean-up bill to AB 2251, which made several technical changes and added exemptions from the SLSA for guaranty agencies and debt collectors, as specified.

AB 2251 (Stone, Chapter 824, Statutes of 2016), enacted the SLSA, operative July 1, 2018, which requires persons servicing student loans in this state, as defined, to become licensed by DBO, comply with specified requirements, and refrain from engaging in specified prohibited acts.

Staff Comments: Through the Student Loan Servicing Office, DBO recently began licensing and regulating student loan servicers engaged in business in California. DBO's oversight includes fielding complaints from borrowers and enforcing violations. This bill would build on this new program by establishing a "Bill of Rights" for borrowers by adding to the rules contained in the SLSA, applying new rules to a broader set of

entities than those required to be licensed under SLSA, adding a private right of action, allowing DBO and the Attorney General to enforce violations of federal law, establishing a student borrow advocate, and instituting marketing monitoring.

Student loan servicers are not an original lender or loan holder. Instead, servicers contract with lenders to manage loans and process payment plans and respond to borrower questions. These servicers enter into contracts with loan providers, including the federal government, and earn commission on the loans they service. A borrower generally has no control over which company services a loan, and federal rules governing these companies are weak and inconsistent.

While the Student Loan Servicing Office is fairly new, DBO has already engaged with noncompliant servicers. In July 2018, DBO sent letters to 12 servicers that did not properly register with DBO.

-- END --