
Higher Education Committee

HB 1169

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

Sponsors: Representatives Orwall, Pollet, Appleton, Goodman, Tarleton, Bergquist, Stanford, Fitzgibbon, Doglio and Wylie.

Brief Summary of Bill

- Establishes a student education loan debt hotline and website where borrowers can receive assistance from student education loan debt counselors on their student education loans.
- Requires educational institutions, lenders, servicers, and collection agencies of student education loans to send notices to borrowers about the student education loan debt hotline, website, and counselors.
- 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 writs and forms for garnishment and continuing lien on earnings to specify whether a writ is for private student loan debt, and if so, to notify the debtor of their exemption rights for private student loan debt.

Hearing Date: 1/25/17

Staff: Megan Mulvihill (786-7304).

Background:

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.

Student Loan Debt.

Federal and private student loans can be used to cover tuition and fees, books, supplies, and costs of attendance at a post secondary institution. There are two federal student loan programs: the William D. Ford Federal Direct Loan (Direct Loan) program and the Federal Perkins Loan program. The Direct Loan program is the largest program, and the U.S. Department of Education is the lender. Under the Perkins Loan program the institution is the lender, and loans are provided to students with exceptional financial need. If a student does not qualify for federal student loans, or the student has unmet need, the student may use private student loans to cover their costs. Private student loans typically have higher interest rates, require good credit or a co-signer, and have less repayment options than federal student loans.

According to the Institute for College Access and Success' Project on Student Debt, 58 percent of 2015 Washington graduates of four-year public and private non-profit institutions had student loan debt with an average balance of \$24,804.

Student Loan Default.

A federal student loan falls into default if a borrower fails to make a payment for 270 days. Upon default, the entire balance of the loan, including interest, becomes due, and the borrower loses the options of deferment, forbearance, and repayment plans. In addition to the collection's process, the federal government may collect payment through treasury offsets, tax offsets, and wage garnishment. The federal government may garnish up to 15 percent of a borrower's disposable pay and seize a borrower's federal or state tax refund or payments, such as social security.

Private student loans vary, but may have between 90 to 180 days in delinquency before a borrower defaults. Upon default, the loan is sent to collections, 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. The judgment can be used to obtain a Writ of Garnishment to garnish the 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:

1. thirty-five times the federal minimum hourly wage; or
2. seventy-five percent of disposable earnings.

Professional License Suspension for Defaulted Education Loans.

In 1996 legislation was enacted that allowed an agency or board in charge of issuing a professional license to suspend a borrower's license who defaults on a federal or state-guaranteed educational loan or service-conditional scholarship, if reported by the lending agency. There are 21 states, including Washington, that have similar laws.

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.

Housing Counselors.

The Foreclosure Fairness Act established a toll-free number for homeowners in foreclosure to receive assistance from housing counselors. The housing counselors are provided free of charge to homeowners to provide assistance, information, and be a conduit between the bank and homeowners. Housing counselors have training in financial counseling and are overseen by the Housing Finance Commission (Commission).

Summary of Bill:

Part I: Student Education Loan Debt Counselors.

Borrower, collection agency, educational institution, lender, servicer, student education loan, student education loan debt counseling organization, and student education loan debt hotline are all defined.

A notice must be made available to a borrower by letter or e-mail with information on the statewide student education loan debt hotline and website where a borrower can receive information and assistance from student education loan debt counselors at no charge.

Educational institutions must provide the notice anytime a borrower with loans certified by the institution drops out, transfers to a different educational institution, or graduates. Lenders, servicers, or collection agencies must provide the notice anytime a notice of delinquency, default, collections, or a summons and complaint for a student education loan is issued to a borrower. In addition, the Student Achievement Council, the State Board for Community and Technical Colleges, and the educational institutions are encouraged to disseminate the information about the student education loan debt hotline, website, and counselors by posting it on websites, including it in financial aid educational materials and notices, educating financial aid advisors, and any other method deemed appropriate with the goal of notifying as many students as possible.

A student education loan debt counseling organization must be a nonprofit that has student education loan counselors familiar with issues regarding student education loan debt, including:

- differences between private and federal student loans, and the different types of federal loans;
- grace periods, repayment, deferment, forbearance, delinquency, and default statuses;
- impact of private and federal student education loan default;
- situations for loan discharge;
- options for resolving delinquency and requirements for student education loan rehabilitation;
- when student education loan consolidation may benefit a borrower, and the pros and cons of federal student education loan consolidation versus private student education loan consolidation;
- impacts of refinancing a federal or private student education loan with other consumer debt; and
- the debt collection and judgment process and a borrower's rights and responsibilities if they are garnished.

The Department of Commerce must enter into interagency agreements to contract with the Commission and other appropriate entities to implement the hotline and counseling program. The Commission must approve housing counseling organizations to become student education loan debt counseling organizations. Student education loan debt counseling organizations and their counselors have a duty to: (1) act in good faith to assist borrowers by informing the borrower of his or her options and rights; (2) advising the borrower about documents the borrower must have to seek a student education loan modification or other resolution; and (3) providing guidance, advice, and education as considered necessary. The student education loan debt counseling organization and counselors are not liable for civil damages resulting from any acts of omissions, unless it constitutes gross negligence or willful or wanton misconduct.

Part II: Professional License Suspensions.

All provisions that allow an agency to suspend a professional license due to student loan default, if reported by a lending agency, are repealed, except for escrow agents.

Part III: Private Student Loan Debt.

Private student loan is defined as any loan not guaranteed by the federal or state government that is used primarily for personal use to finance post secondary education and costs of attendance at an educational institution. A private student loan includes a loan made solely to refinance a private student loan. A private student loan does not include an extension of credit made under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

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:

1. fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or
2. eighty-five percent of disposable.

If a Writ of Garnishment or a Writ for Continuing Lien on Earnings is issued under an order or judgment for private student loan debt, the forms notifying the debtor of the garnishment or continuing lien on earnings must specify that the garnishment or continuing lien is based on an order or judgment for private student loan debt. 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.

Appropriation: None.

Fiscal Note: Requested on 01/12/2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.