

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

House Bill 770 (Delegate Stein, *et al.*)
Economic Matters

Maryland Collection Agency Licensing Act - Student Education Loan Servicers

This bill alters the definition of “collection agency” under the Maryland Collection Agency Licensing Act to include a person who engages, either directly or indirectly, in the business of servicing a student education loan of a student borrower, including (1) collecting and receiving any principal, interest, or other money owed under a student education loan or (2) performing any other administrative services that relate to a student education loan.

Fiscal Summary

State Effect: General fund revenues increase minimally beginning in FY 2018 as student loan servicers are required to register as collection agencies with the State Collection Agency Licensing Board (SCALB). However, the bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government operations or finances.

Small Business Effect: None.

Analysis

Current Law: The Maryland Collection Agency Licensing Act requires a person to be licensed by SCALB whenever the person does business as a collection agency, generally defined as engaging, either directly or indirectly, in the business of (1) collecting a consumer claim; (2) collecting a consumer claim acquired when the claim was in default; (3) collecting a consumer claim using a name or other artifice that indicates that another party is attempting to collect a consumer claim; (4) using a system of forms that indicates

that a person other than the owner is asserting a consumer claim; and (5) employing services to solicit a collection system to be used for collection of a consumer claim. A “consumer claim” is defined as a claim for money owed or said to be owed by a resident of the State that arises from a transaction in which a private party sought credit, money, property, or services.

The Maryland Collection Agency Licensing Act does not apply to (1) banks; (2) federal or State credit unions; (3) mortgage lenders; (4) persons acting under an order of court; (5) certain real estate brokers or those acting on their behalf; (6) savings and loan associations; (7) title companies as to their escrow businesses; (8) trust companies; (9) certain lawyers collecting debt on behalf of a client; and (10) specified persons who are collecting debt on behalf of another person. In addition, the following persons are excluded from the license requirement: (1) a regular employee of a creditor while the employee is acting under the general direction and control of the creditor to collect a consumer claim that the creditor owns; and (2) a regular employee of a licensed collection agency while the employee is acting within the scope of employment.

An applicant for a license must submit an application under oath and pay a fee set by the board, capped at \$900 for a two-year term. (The current fee is set at \$700 by regulation.) An applicant is also required to execute a \$5,000 surety bond for the benefit of any member of the public who has a loss or other damage as the result of a violation of the Maryland Collection Agency Licensing Act or the Maryland Consumer Debt Collection Act. The board may deny a license if an applicant fraudulently uses or attempts to obtain a license or if the applicant or an associate has had a license revoked. A license is generally valid for a period of two years.

A person may not do business as a collection agency without a State license. A person who violates this law is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000 or imprisonment for up to six months or both.

Background:

Student Loan Debt

A report from the Federal Reserve Bank of New York estimates that U.S. student loan debt totaled \$1.20 trillion in the third quarter of 2013. Student loan debt continues to rise and is now the second largest total debt balance after mortgage debt. Student loan debt has almost tripled between 2006 and 2015, and 60% of borrowers have a balance of greater than \$10,000. Currently, about 42.5 million borrowers have student loan debt, nearly double the number from 10 years ago, with average real debt per borrower increasing from about \$19,000 to \$27,000.

The Federal Reserve notes that factors driving the increase in student loan debt include increased enrollment, rising costs, students staying longer and more often attending graduate school, lower repayment rates, and the difficulty in discharging debt. The Federal Reserve has also expressed concern that high levels of student debt and delinquency reduce borrowers' ability to acquire other types of credit, which may hamper the recovery of the housing market, a key driver of economic growth.

The growth in outstanding student loan debt has also been accompanied by a marked increase in student loan delinquency. In the third quarter of 2013, an estimated 11.6% of all student loans were seriously delinquent (at least 90 days delinquent); this was the highest delinquency rate of any loan type. The Federal Reserve notes that due to data limitations the actual student loan delinquency rate could be as much as twice as high as the estimated rate.

According to the Project on Student Loan Debt, the average debt of 2015 college graduates from Maryland institutions was \$27,672, the twenty-eighth highest in the nation. About 56% of these graduates have a student loan debt, which ranked thirty-sixth among all states. These estimates include only public and nonprofit four-year institutions. The Federal Reserve estimates that 16.7% of all Maryland individuals with a credit report have a student loan, compared with 16.2% nationwide. According to the Federal Reserve, the average Maryland student loan borrower reported a balance of \$28,330, above the national average of \$24,800 and the highest of any state.

According to the National Conference of State Legislatures, Maine, Massachusetts, and Rhode Island provide some type of tax credit or deduction for student loan debt or interest payments.

State Collection Agency Licensing Board

SCALB is chaired by the Commissioner of Financial Regulation, exists within the Office of the Commissioner of Financial Regulation, and has statutory responsibility for the licensing of collection agencies operating in Maryland. The Governor, with the consent of the Senate, appoints the four-member board, consisting of two consumer representatives and two industry representatives. The commissioner serves as chairman. The board addresses written complaints, conducts hearings on alleged violations, mediates disputes, and issues orders requiring licensees to correct violations. The board also informs both licensees and the public about abusive debt collection practices.

State Fiscal Effect: The commissioner advises that SCALB licenses approximately 1,600 collection agencies as of June 30, 2016. In addition, according to the commissioner, a recent review of the nation's 10 largest student loan servicers found that they did not hold a collection agency license in Maryland. Thus, under the bill, at least 10 new collection

agency licenses would be issued at \$700 biannually. Additional complaints might also be received by the commissioner. However, the Department of Legislative Services advises that the Commissioner of Financial Regulation and SCALB can likely handle any additional complaints with existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 916 (Senator Feldman, *et al.*) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; U.S. Federal Reserve; Project on Student Loan Debt; Department of Legislative Services

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