
DIGEST

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HB 507 Original

2020 Regular Session

Duplessis

Abstract: Requires private education lenders to follow certain regulations in order to inform potential cosigners of the implications of being a cosigner, to keep active cosigners aware of the status of the loan, and to allow a procedure for a cosigner to ultimately be released from the loan.

Proposed law defines "private education loan", "private education lender", "borrower" or "student loan borrower", and "cosigner".

Proposed law applies to any person or entity that enters into a contract or subcontract with a private education lender (lender) or servicer to perform the servicing of a private education loan (loan).

Proposed law requires borrowers to be jointly and severally liable for the actions of the person or entity in fulfilling the obligations of the postsecondary educational lender or servicer.

Proposed law requires the lender to provide all cosigners applicants information about their rights and responsibilities as a cosigner. All of the following must be included in the information:

- (1) Information about how the loan obligation will appear on the cosigner's credit.
- (2) Information about how the cosigner will be notified if the loan becomes delinquent and how the cosigner can cure the delinquency to avoid negative credit furnishings and a loss of the cosigner release eligibility.
- (3) Information about eligibility for release of the cosigner's obligation on the loan including the number of consecutive, on-time payments, and any other criteria, required to approve the release.

Proposed law requires lenders to send the following notifications:

- (1) Annual written notices to borrowers and cosigners containing information about cosigner release, including the criteria the lender requires to approve the release of the cosigner from the loan and the process for applying for cosigner release.
- (2) A notification to borrowers and cosigners that the borrower has met the required number of consecutive, on-time payments to be eligible for cosigner release, including information about any additional criteria required to qualify for cosigner release and the process for

applying for cosigner release.

- (3) Written notice to the borrower that an application for cosigner release is incomplete, including a description of the information needed to consider the application complete and the date by which the applicant should furnish the missing information.
- (4) A written notice, to the borrower and cosigner, to be sent within 30 days after an application for cosigner release is submitted, stating whether the application has been approved or denied, including any adverse action notifications required under applicable present law.

Proposed law allows a borrower who is denied a request for cosigner release to request all documents and information used in that determination.

Proposed law requires lenders to provide requested information provided for in proposed law.

Proposed law prohibits lenders from doing any of the following:

- (1) Imposing any restrictions that may permanently bar a borrower from qualifying for cosigner release.
- (2) Imposing any negative consequences on any borrower or cosigner during the sixty days following the issuance of the notice required under proposed law or until the lender makes a determination about a borrower's application for cosigner release.
- (3) Requiring more than 12 consecutive, on-time payments as criteria for a cosigner release.

Proposed law provides that a borrower who has paid the equivalent of 12 months of principal and interest payments within any 12-month period will be considered to have satisfied the consecutive, on-time payment requirement, even if the payments weren't made monthly.

If a borrower or cosigner requests a change in terms that restarts the count of consecutive, on-time payments, proposed law requires the lender to notify the borrower and cosigner, in writing, of the impact of the requested change and provide them the right to withdraw or reverse the request.

Proposed law gives the borrower the right to request an appeal of the lender's determination to deny the cosigner release application and to submit additional documentation evidencing that the borrower has the financial capacity to handle the obligation.

Proposed law requires a lender to establish and maintain a comprehensive record management system containing certain data and information about cosigner release applications.

If the cosigner has a total and permanent disability proposed law requires the lender to release the cosigner from his obligation to repay the loan, and the lender is not required to replace the cosigner.

Proposed law requires a lender to provide a cosigner of a loan with access to all documents or

records related to the loan that are available to the borrower.

If a lender provides electronic access to documents and records for a borrower, proposed law requires the lender to provide equivalent electronic access to the cosigner.

Proposed law provides that a loan executed after the enactment of proposed law, may not include a provision that permits the lender to accelerate, in whole or in part, payments on the loan, except in cases of default.

Proposed law prohibits a lender from placing any loan or account into default or accelerate a loan for any reason, other than default.

In the event of the cosigner's death, proposed law prohibits the lender from attempting to collect against the cosigner's estate for any reason, except failure to pay.

Upon receiving notification of the death or bankruptcy of the cosigner, when the loan is not more than 60 days delinquent, proposed law prohibits the lender from changing any terms or provisions associated with the loan.

In addition to applicable penalties in present law, proposed law allows the commissioner of the Office of Financial Institutions, after notice and hearing, to require a person in violation of proposed law to pay a penalty for each violation.

Proposed law provides that the sum of these penalties is not to exceed the greater of the following:

- (1) \$10,000 for each offense.
- (2) A multiple of two times the aggregate damages attributable to the violations.
- (3) A multiple of two time the economic gain attributable to the violations.

Proposed law allows any borrower or cosigner who suffers damage as a result of the failure of a person or entity described in proposed law, to comply with proposed law, to bring an action of his own behalf and on the behalf of a similarly situated class of consumers against that person or entity and to recover any of the following:

- (1) Actual damages of at least \$500.
- (2) An order enjoining the methods, acts, or practices of the person or entity.
- (3) Restitution of property.
- (4) Punitive damages.
- (5) Attorney fees.

(6) Any other relief that the court deems proper.

(Adds R.S. 6:1381-1388)