

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Das Williams, Chair
AB 534 (Wieckowski) – As Amended: April 15, 2013

SUBJECT: Postsecondary education: institutional and financial assistance information for students.

SUMMARY: Requires public and private postsecondary educational institutions provide entrance and exit counseling, as specified, for students enrolled at their institutions regarding student loans offered by the institution or a private lender, and prohibits a lender from accepting an application for a private student loan without first receiving certification that the counseling was conducted by the appropriate postsecondary institution, which may charge a fee to the lender for this service. Specifically, this bill:

- 1) Requires the following public and private postsecondary educational institutions to provide entrance and exit counseling for students at all campuses within their respective jurisdictions with respect to any student loan offered by the institution or a private lender offered or recommended to the student by the institution or segment:
 - a) The Regents of the University of California;
 - b) The Trustees of the California State University;
 - c) The governing board of each community college district;
 - d) The governing body of each accredited independent institution of higher education in this state; and,
 - e) The governing body of each private postsecondary educational institution as defined in the Private Postsecondary Education Act.
- 2) Allows entrance counseling sessions to be conducted in person on a written form provided to the student that the student signs and returns to the institution, or online with the student acknowledging receipt of the information.
- 3) Requires entrance counseling be provided before the student enters into the loan agreement, expressed in a simple and understandable manner and providing the student with following information:
 - a) To the extent practicable, the effect of accepting the loan to be disbursed on the eligibility of the borrower for other forms of student financial assistance;
 - b) Information on how interest accrues and is capitalized during periods when the interest is not paid by the borrower;

- c) The definitions of full-time and half-time enrollment at the institution, during regular terms and intersession terms, if applicable, and the consequences of not maintaining full-time or half-time enrollment;
 - d) An explanation of the importance of contacting the appropriate offices at the institution if the borrower withdraws before completing his or her program of study so that the institution can provide exit counseling;
 - e) Sample monthly repayment amounts, based on a range of levels of indebtedness;
 - f) The obligation of the borrower to repay the full amount of the loan, irrespective of whether the borrower completes his or her program of study at the institution;
 - g) The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures, and litigation;
 - h) Information about whether the student has reached the maximum on his or her federal student loan opportunities;
 - i) Specified contact information for questions about the borrower's rights and responsibilities under the loan, and information about how a student or a member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education, as specified; and,
 - j) Information about private loans that is required to be provided to students by postsecondary educational institutions pursuant to existing law (Education Code § 69800).
- 4) Requires exit counseling be provided as close as practicable to the date that a student graduates from, transfers from, withdraws from, or otherwise completes his or her program of study at, the institution, including all of the following:
- a) Repayment plans that are available, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments, under each plan;
 - b) Debt management strategies that are designed to facilitate the repayment of indebtedness;
 - c) An explanation that the borrower has the options to prepay each loan, pay each loan on a shorter schedule, or change repayment plans;
 - d) The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures, and litigation;
 - e) Information on the effects of consolidation on a borrower's underlying loan benefits;
 - f) Information on grace periods, loan forgiveness, cancellation, and deferment opportunities;

- g) The borrower benefit programs of different lenders;
 - h) A general description of the tax benefits that may be available to borrowers; and,
 - i) Information on how to enroll in income-based repayment.
- 5) Requires institutions to attempt to provide the exit counseling information described to the student in writing when a student leaves an institution without the knowledge of the institution.
- 6) Prohibits a lender from accepting a final and complete application or assessing any fees for a private student loan without first receiving certification from the applicant's postsecondary educational institution that the applicant has received entrance counseling from the educational institution and that the counseling was conducted in person, unless the certification specifies that the applicant elected to receive the counseling in a manner other than in person.
- 7) Requires the certification to be signed by the borrower and the institutional counselor, to include the date of the counseling and the name, address, and telephone number of both the counselor and the applicant; allows electronic facsimile copy of the counseling certification to satisfy this requirement; and requires the lender to maintain the certification in an accurate, reproducible, and accessible format for the term of the student loan.
- 8) Authorizes an institution to access a reasonable fee to the lender to defray the cost of additional counseling in an amount not exceeding \$50 for providing the service.

FISCAL EFFECT: Unknown but institutions are authorized to charge the lender a fee to cover counseling costs under this bill.

COMMENTS: Need for the bill. According to the author, "The goal of this bill is to require consistent counseling of students across their various student loans. This bill achieves that by mimicking for private loans (in California institutions) what is already required for federal loans. Students receive basic information about their federal loans from a financial aid officer (or via a computer module) when they sign for a federal student loan and at the time they leave the school. This bill will require that they also receive comparative information for their private loans at the times."

Federal v. private loans. Students have two options when looking to take out loans—federal loans and private loans. Federal loans have fixed rates with set caps, limits on fees, and flexible repayment options. While federal loans make up the majority of student loan borrowing, there are limits to how much money students can borrow under federal loan programs; the remaining “unmet need” to cover total educational expenses are often financed through private loans. Private loans often lack the basic consumer protections and flexible repayment options of federal loans, such as unemployment deferment, income-based repayment, and loan forgiveness programs. According to The Institute for Access and Success in its report on student debt in 2011, the most recent available national data indicate that 33% of bachelor's degree recipients graduated with private loans, with an average private loan amount of \$12,550. However, there is great variation in private loan borrowing among different types of institutions. Private loans are

most prevalent at for-profit colleges, where 64% of graduating seniors have private loan debt. Neither federal nor private student loans may be discharged through bankruptcy.

California data. According to data from the Project on Student Debt, 51% of students who graduated from public and private non-profit four-year universities in California in 2011 took out student loans (41st nationally) with an average debt of \$18,879 (46th nationally). However, this data is limited because it doesn't include most for-profit institutions, some nonprofit colleges did not report their student debt data, and the data looks only at graduates. Nationally, 66% of college seniors who graduated in 2011 had student loan debt, with an average of \$26,600 per student.

The Federal Reserve of San Francisco's *Student Debt and Default in the 12th District*, indicates the share of private loans increased rapidly from 2000 through 2007, consistent with the broader trends of easy credit during the housing boom. At their peak, private loans made up 26% of the total student loans in the 2006-2007 academic year, for a total of \$22.6 billion. Students whose parents earned less than \$36,000 accessed private loans at roughly the same rate as students whose parents earned more than \$105,000 for the 2007-2008 school year. Private loan activity began to diminish in 2008, consistent with tighter credit conditions across all sectors, but they still accounted for \$7.9 billion in 2010-2011. The recent difficulties facing credit markets in general, combined with increases in the availability of federal student loans are reflected in diminished use of private education loans. There is no reliable source for exact information on total borrowing from these sources.

Existing disclosure/counseling requirements. There are several federal and state requirements intended to inform students' borrowing decisions:

- 1) Federal law requires basic entrance and exit counseling for any student taking out federally backed student loans. (Established by HR 4137, the Higher Education Reauthorization Act of 2008)
- 2) Federal law requires applicants for private education loans to submit a signed self-certification form provided by postsecondary education institutions of higher education before a private loan can be completed, containing numerous disclosures and information about federal aid that may be available in place of a private loan, the estimated total cost of attendance, and the difference between the total cost and estimated financial aid. (Established by HR 4137, the Higher Education Reauthorization Act of 2008)
- 3) State law requires a public, private, or independent postsecondary educational institution, except the CCC, to make specified disclosures related to private student loans in financial aid material and private loan applications provided or made available by the institution, such as interest rates, fees, comparisons to federal aid, and the inability to discharge the loan through bankruptcy. [Established by SB 1289 (Corbett), Chapter 623, Statutes of 2012]

Arguments in support. Treasurer Bill Lockyer states, "As more students rely on private loans to help pay for college, it is important to all of us that they have the adequate information and advice, and understand the terms of the loan." Consumers Union notes that this bill creates a level playing field by ensuring that students with private loans get the same comprehensive counseling as those with federal loans."

Arguments in opposition. The California Bankers Association argues that compliance with this bill will be very difficult and is another attempt to demonize a loan product. They contend this bill violates the federal National Bank Act and Dodd-Frank Wall Street Reform and Consumer Protection Act by placing limits on the extension of credit and assessment of fees and interfering with a national bank's ability to exercise its powers to conduct the business of banking. They also oppose the provision allowing postsecondary educational institutions to assess a lender's fee for providing the counseling services required by the bill.

Technical amendment. The author has agreed to accept a following clarifying amendment:

Page 3, line 37: (ii) Information regarding how a student or any member of the public may file a complaint about this ~~institution~~ lender with the ~~Bureau for Private Postsecondary Education~~ Consumer Financial Protection Bureau by calling a toll-free telephone number, or by completing a complaint form, which can be obtained on the bureau's Internet Web site. The toll-free telephone number and Internet Web site address of the bureau shall be included.

Prior legislation. AB 330 (Chau), set for hearing in this Committee on April 23, would require postsecondary educational institutions to provide their net price calculators and average student debt to the California Student Aid Commission as a condition of Cal Grant eligibility. SB 1289 (Corbett), Chapter 623, Statutes of 2012, requires postsecondary higher education institutions to make specified disclosures to students about private student loans in financial aid materials. AB 2010 (Bonilla), Chapter 641, Statutes of 2012, prohibits a reverse mortgage lender from accepting a complete and final application for a reverse mortgage unless the applicant has completed in person counseling or the counseling certification specifies that the applicant elected to receive counseling in a manner other than in-person.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Student Association
California Teachers Association
Chief Executive Officers of the California Community Colleges
Children's Advocacy Institute
Consumers Union
Bill Lockyer, Treasurer, State of California
Los Rios Community College District

Opposition

California Bankers Association

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