S T A T E O F N E W Y O R K

1318

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to enhanced enforcement of the primary care physician loan and scholarship programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 4 of section 903 of the public health law, as amended by chapter 639 of the laws of 1996, is amended to read as follows:

4. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have practiced as a primary care physician in an underserved area in the state of New York or, in the case of a recipient of an award after completion of residency training, the recipient shall have practiced in an underserved area for that number of months calculated by multiplying by twelve the number of annual awards received by the recipient. If a recipient fails to comply fully with such conditions[,]:

(A) the president shall be entitled to receive from such recipient an amount to be determined by the formula:

$$A = \frac{2B(t-s)}{t}$$

In which "A" is the amount the president is entitled to recover, "B" is the sum of all payments made to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of services actually rendered by the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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recipient. Any amount which the president is entitled to recover under this subdivision SHALL BECOME DUE AND shall be paid [within the five-year period beginning on the date] IN FULL UPON A DETERMINATION that the recipient failed to comply with this condition. Any obligation to comply with such provisions shall be canceled upon the death of the recipient. The commissioner [of health] shall promulgate regulations to provide for the waiver or suspension of any financial obligation when compliance would involve extreme hardship;

(B) THE COMMISSIONER SHALL INITIATE PROCEEDINGS FOR THE SUSPENSION OF THE RECIPIENT'S LICENSE TO PRACTICE MEDICINE IN THE STATE OF NEW YORK;

(C) THE COMMISSIONER SHALL FILE A REPORT WITH THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE INDICATING THE TOTAL AMOUNT OF A RECIPIENT'S UNEARNED LOAN REPAYMENT AWARD SO THAT SUCH AWARD MAY BE CONSIDERED INCOME FOR THE PURPOSE OF ARTICLE TWENTY-TWO OF THE TAX LAW.

S 2. Section 903 of the public health law is amended by adding a new subdivision 4-a to read as follows:

4-A. (A) A RECIPIENT OF A LOAN REPAYMENT AWARD SHALL REPORT ANNUALLY TO THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION, ON FORMS PRESCRIBED BY THE PRESIDENT, AS TO THE PERFORMANCE OF THE REQUIRED SERVICES, COMMENCING WITH THE CALENDAR YEAR IN WHICH THE RECIPIENT BEGINS TO PROVIDE PRIMARY CARE SERVICES IN AN UNDERSERVED AREA AND CONTINUING UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR UNTIL IT IS DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO COMPLETE, THE REQUIRED SERVICES. IF THE RECIPIENT SHALL FAIL TO FILE ANY REPORT REQUIRED HEREUNDER WITHIN THIRTY DAYS OF WRITTEN NOTICE TO THE RECIPIENT, MAILED TO THE ADDRESS SHOWN ON THE LAST APPLICATION FOR AN AWARD OR LAST REPORT FILED, WHICHEVER IS LATER, THE PRESIDENT OF THE CORPORATION MAY IMPOSE A FINE OF UP TO FIVE THOUSAND DOLLARS. THE PRESIDENT SHALL HAVE THE DISCRETION TO WAIVE THE FILING OF A REPORT, EXCUSE A DELAY IN FILING OR A FAILURE TO FILE A REPORT, OR WAIVE OR REDUCE ANY FINE IMPOSED FOR GOOD CAUSE SHOWN.

(B) IN ADDITION TO THE REPORTING REQUIREMENTS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION, A RECIPIENT OF AN AWARD SHALL SUBMIT TO THE DEPARTMENT AT EACH BIENNIAL REGISTRATION PERIOD PROVIDED IN SUBDIVISION EIGHT OF SECTION SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW, A REPORT AS TO THE PERFORMANCE OF THE REQUIRED SERVICES.

S 3. Subdivisions 6 and 7 of section 904 of the public health law, as amended by chapter 255 of the laws of 1994, are amended to read as follows:

6. If a recipient fails to comply fully with such conditions[,]:

(A) the president shall be entitled to receive from such recipient an amount to be determined by the formula:

$$A = \frac{2B(t-s)}{t}$$

in which "A" is the amount the president is entitled to recover, "B" is the sum of all awards made to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under this [paragraph] SUBDIVISION SHALL BECOME DUE AND shall be paid [within the five-year period beginning on the date] IN FULL UPON A DETERMINATION that the recipient failed to comply with this service condition. Nothing

in the written agreement shall affect the terms of employment of the individual who shall negotiate, separate and apart from the program, his or her salary and other forms of employment with an agency, institution or a program in which he or she shall be employed. Any obligation to comply with such provisions as outlined in this section shall be canceled upon the death of the recipient. The commissioner shall promulgate regulations to provide for the waiver or suspension of any financial obligation when compliance would involve extreme hardship;

(B) THE COMMISSIONER SHALL INITIATE PROCEEDINGS FOR THE SUSPENSION OF THE RECIPIENT'S LICENSE TO PRACTICE MEDICINE IN THE STATE OF NEW YORK;

(C) THE COMMISSIONER SHALL FILE A REPORT WITH THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE INDICATING THE TOTAL AMOUNT OF A RECIPIENT'S UNEARNED LOAN REPAYMENT AWARD SO THAT SUCH AWARD MAY BE CONSIDERED INCOME FOR THE PURPOSES OF ARTICLE TWENTY-TWO OF THE TAX LAW.

7. (A) A recipient of an award shall report annually to the New York state higher education services corporation, on forms prescribed by the president, as to the performance of the required services, commencing with the calendar year in which the recipient begins to provide primary care services in an underserved area and continuing until the recipient shall have completed, or until it is determined that he or she shall not be obligated to complete, the required services. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to [one] FIVE thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

(B) IN ADDITION TO THE REPORTING REQUIREMENTS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION, A RECIPIENT OF AN AWARD SHALL SUBMIT TO THE DEPARTMENT AT EACH BIENNIAL REGISTRATION PERIOD PROVIDED IN SUBDIVISION EIGHT OF SECTION SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW, A REPORT AS TO THE PERFORMANCE OF THE REQUIRED SERVICES.

S 4. Section 904 of the public health law is amended by adding a new subdivision 9 to read as follows:

9. THE COMMISSIONER, IN CONSULTATION WITH THE COUNCIL, SHALL PROMULGATE REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS SECTION.

S 5. This act shall take effect on the one hundred twentieth day after it shall have become a law, except that any rule or regulation necessary for the timely implementation of this act shall be promulgated on or before such date.