

6593--A

2017-2018 Regular Sessions

I N S E N A T E

June 6, 2017

Introduced by Sen. HAMILTON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to establish the task force on online lending institutions, and providing for its powers and duties; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Legislative findings and intent. The legislature finds and
2 declares that nationwide financial and technological firms have used
3 electronic platforms to develop a completely new sector of business,
4 known as online lending. The New York state economy, which is driven by
5 a virtual presence on the internet, just like other businesses, has
6 needs for capital to grow and prosper. The legislature further finds
7 that in recent years, financial services have begun to use electronic
8 platforms to reduce costs and expand availability and have specialized
9 in providing small personal and commercial loans to residents and busi-
10 nesses in this state.

11 The legislature further finds that although online loans can provide
12 another avenue for individuals and entrepreneurs to acquire capital and
13 grow their small business, there is potential for unscrupulous online
14 lenders to exploit consumers through predatory practices. While the
15 state has an interest in fostering its economy and its businesses, it
16 likewise has an interest in protecting its consumers and the well-being
17 of its residents.

18 S 2. Task force on online lending institutions. 1. There is hereby
19 established a task force on online lending institutions (hereinafter
20 referred to in this section as the "task force") which shall consist of
21 seven members as follows:

22 (a) three members appointed by the governor;

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

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1 (b) two members appointed by the temporary president of the senate;
2 and

3 (c) two members appointed by the speaker of the assembly.

4 2. The appointed members should include individuals representative of
5 the online lending community, the small business community, the finan-
6 cial services industry, and the consumer protection community. Appoint-
7 ments shall take into consideration the expertise of the other appoint-
8 ees, so that the task force reflects a diversity of experience.

9 3. The members of the task force shall receive no compensation for
10 their services, but shall be allowed their actual and necessary expenses
11 incurred in the performance of their duties pursuant to this section.

12 4. Any vacancies in the membership of the task force shall be filled
13 in the manner provided for in the initial appointment.

14 5. The task force may consult with any organization, other government
15 entity or agency, or person, in the development of its report required
16 by subdivision six of this section.

17 6. On or before April 15, 2018, the task force shall submit to the
18 governor, the temporary president of the senate and the speaker of the
19 assembly a report containing the following:

20 (a) an analysis of data received by the department of financial
21 services on the prevalence of these institutions in the state, specif-
22 ically, how many online lenders are lending to consumers and small busi-
23 nesses in this state;

24 (b) an analysis of data received by the attorney general and division
25 of consumer affairs regarding the number of complaints, actions and
26 investigations related to online lending institutions;

27 (c) an examination of the online lending industry and the key partic-
28 ipants therein, and an investigation and understanding of the differ-
29 ences in small business and consumer borrowers, lenders and markets,
30 such as the history, business models and practices of online lending
31 institutions including identification of interest rates charged by
32 online lenders;

33 (d) an examination of how consumers are utilizing online consumer
34 credit to manage existing debt, potentially reduce borrowing costs or
35 access needed funds;

36 (e) an examination of the existing small business credit gap and small
37 business' use of credit and credit needs;

38 (f) identification of alternatives for consumers and small businesses
39 who are unable to access traditional financing and whether new technolo-
40 gies can enhance access to credit;

41 (g) an examination of whether existing federal and state laws already
42 provide appropriate police powers and regulation of small business and
43 consumer lending by online lending institutions;

44 (h) an evaluation of the impact of any contemplated or proposed law or
45 regulation on the small business credit gap, including a quantitative
46 analysis of the amount of increased or decreased credit available to
47 small businesses as a result of such law or regulation, including the
48 extent to which access to credit would be affected under the state's
49 current usury laws;

50 (i) an analysis of the potential interaction of federal law with any
51 contemplated or proposed state regulation;

52 (j) an exploration of options for multistate collaboration to harmon-
53 ize the laws and regulations of various states related to small business
54 and consumer lending across state borders;

1 (k) an assessment of best practices for small business and consumer
2 loan disclosures, including current online lending industry efforts to
3 advanced standardized and clear information for borrowers;

4 (l) an assessment of whether consumer loans and small business loans
5 are treated differently by online lending institutions and if any level
6 of oversight should take such differences into consideration;

7 (m) an identification of what consumer protections exist to protect
8 consumers in this state from predatory practices of online lending
9 institutions; and

10 (n) a determination of what new measures, if any, are needed to ensure
11 consumers are protected from deceptive or predatory lending without
12 unduly restricting access to credit.

13 All information and data required to be reported pursuant to this
14 subdivision shall be provided in the aggregate statewide, and shall not
15 provide any information or data relating to a specific borrower or
16 borrowers, or lender or lenders.

17 S 3. This act shall take effect immediately, and shall expire and be
18 deemed repealed April 15, 2018.