STATE OF NEW YORK

7294

IN SENATE

January 5, 2018

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

AN ACT to amend a chapter of the laws of 2017, relating to establishing the task force on online lending institutions, and providing for its powers and duties, as proposed in legislative bills numbers S. 6593-A and A. 8260-A, in relation to directing the department of financial services to study, evaluate and make recommendations concerning online lending institutions and the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2 of a chapter of the laws of 2017, relating to establishing the task force on online lending institutions, and providing for its powers and duties, as proposed in legislative bills numbers S. 6593-A and A. 8260-A, is amended to read as follows:

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

~~(a) three members appointed by the governor;~~

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

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

~~2. The appointed members should include individuals representative of the online lending community, the small business community, the financial services industry, and the consumer protection community. Appointments shall take into consideration the expertise of the other appointees, so that the task force reflects a diversity of experience.~~

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

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

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

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

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

~~(a) an analysis of data received by the department of financial services on the prevalence of these institutions in the state, specifically, how many online lenders are lending to consumers and small businesses in this state;~~

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

~~(c) an examination of the online lending industry and the key participants therein, and an investigation and understanding of the differences in small business and consumer borrowers, lenders and markets, such as the history, business models and practices of online lending institutions including identification of interest rates charged by online lenders;~~

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

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

~~(f) identification of alternatives for consumers and small businesses who are unable to access traditional financing and whether new technologies can enhance access to credit;~~

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

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

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

~~(j) an exploration of options for multistate collaboration to harmonize the laws and regulations of various states related to small business and consumer lending across state borders;~~

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

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

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

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

~~All information and data required to be reported pursuant to this subdivision shall be provided in the aggregate statewide, and shall not~~

~~provide any information or data relating to a specific borrower or borrowers, or lender or lenders.~~]

1. The department of financial services is hereby authorized and directed to study and issue a public report with recommendations, concerning the practices, economic impact, and operations of online lending in New York state. This report shall be prepared in consultation with stakeholders, including online lenders, consumers and small businesses.

2. On or before July 1, 2018, the superintendent of financial services shall submit to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on banks, and the chair of the assembly standing committee on banks, a written report detailing the findings and recommendations on the department's study performed in accordance with subdivision one of this section. Such report shall not include personal identifying information of any borrower. The superintendent shall use reasonable efforts to identify the online lenders currently operating in New York state and shall include the following information in the report:

(i) An analysis of the online lenders presently operating in the state including the common means and methods of their operations, and business; lending practices of the online lending industry, and prevalence of such practices, including disclosure practices and interest rates and costs charged by online lenders to individuals and businesses in the state; the primary differences between online lending products and services and those made by traditional lending institutions doing business in the state; the risks and benefits of the products offered; and the other forms of credit that would be available to such borrowers in the absence of online lending opportunities;

(ii) The types and availability of credit products for individuals and businesses;

(iii) An analysis of data, if available and accessible, regarding the type and number of complaints, actions and investigations related to online lenders; and

(iv) A survey of the existing state and federal laws and regulations that apply to the online lending industry, and the impact of such laws and regulations on consumers, and the access to credit on online lenders, including but not limited to the availability and cost of such credit opportunities to start up or emerging businesses.

§ 2. Section 3 of a chapter of the laws of 2017, relating to establishing the task force on online lending institutions, and providing for its powers and duties, as proposed in legislative bills numbers S. 6593-A and A. 8260-A, is amended to read as follows:

§ 3. This act shall take effect immediately, and shall expire and be deemed repealed [~~April 15,~~] July 1, 2018.

§ 3. This act shall take effect immediately; provided, however that section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2017, relating to establishing the task force on online lending institutions, and providing for its powers and duties, as proposed in legislative bills numbers S. 6593-A and A. 8260-A, takes effect.