

8159

2011-2012 Regular Sessions

I N A S S E M B L Y

June 3, 2011

Introduced by M. of A. GLICK -- (at request of the Higher Education Services Corporation) -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to permitting credit, security clearance, and criminal background checks of employees of the Higher Education Services Corporation

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

1 Section 1. The education law is amended by adding a new section 652-a
2 to read as follows:
3 S 652-A. EMPLOYEES OF THE NEW YORK STATE HIGHER EDUCATION SERVICES
4 CORPORATION; BACKGROUND CHECKS. 1. CURRENT AND PROSPECTIVE EMPLOYEES OF
5 THE CORPORATION SHALL BE SUBJECT TO BACKGROUND AND SECURITY CLEARANCE
6 INVESTIGATIONS REQUIRED IN THE ORDINARY COURSE OF THE CORPORATION'S
7 BUSINESS IF BACKGROUND AND SECURITY CLEARANCE ARE NECESSARY FOR EMPLOYEE
8 PARTICIPATION OR PROPOSED PARTICIPATION IN THE ADMINISTRATION OF FEDERAL
9 STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE FEDERAL DIRECT LOAN
10 PROGRAM.
11 2. SUCH BACKGROUND OR SECURITY CLEARANCE INVESTIGATION SHALL BE
12 PERFORMED BY THE CORPORATION OR ON BEHALF OF THE CORPORATION BY A STATE
13 OR FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS.
14 THE CORPORATION SHALL BE AUTHORIZED TO REQUEST AND RECEIVE FROM THE
15 DIVISION OF CRIMINAL JUSTICE SERVICES OR FEDERAL GOVERNMENT AGENCY
16 HAVING FACILITIES FOR PERFORMING SUCH SERVICES: SECURITY CLEARANCE
17 INFORMATION, INCLUDING CRIMINAL BACKGROUND AND CREDIT INFORMATION FOR
18 CORPORATION EMPLOYEES, NEW YORK STATE EMPLOYEES SEEKING TRANSFER TO THE
19 CORPORATION UNDER SECTION SEVENTY OF THE CIVIL SERVICE LAW, NEW YORK
20 STATE EMPLOYEES SEEKING HIRE AT THE CORPORATION WHO ARE ON A PREFERRED
21 LIST SUBJECT TO SECTION EIGHTY-ONE OF THE CIVIL SERVICE LAW, OR NEW YORK
22 STATE EMPLOYEES SEEKING HIRE AT THE CORPORATION THROUGH THEIR PLACE ON
23 AN ELIGIBLE LIST AS DEFINED IN SECTION FIFTY-SIX OF THE CIVIL SERVICE

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

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1 LAW AND WHO HAVE SUCCESSFULLY COMPLETED A PROMOTIONAL EXAM SUBJECT TO
2 SECTION FIFTY-TWO OF THE CIVIL SERVICE LAW IF SUCH SECURITY INFORMATION
3 IS NECESSARY FOR THE EMPLOYEES TO BE IN COMPLIANCE WITH THE ADMINIS-
4 TRATION OF FEDERAL STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE
5 FEDERAL DIRECT LOAN PROGRAM. THE CORPORATION SHALL INFORM SUBJECTS OF
6 BACKGROUND AND SECURITY CLEARANCE INVESTIGATIONS OF THE FACTORS TO BE
7 CONSIDERED IN THE EVALUATION OF THE CRIMINAL BACKGROUND INFORMATION AND
8 CREDIT INFORMATION OBTAINED.

9 3. IF AN EMPLOYEE OR PROSPECTIVE EMPLOYEE NEEDS BACKGROUND AND SECURI-
10 TY CLEARANCE IN ORDER TO BE COMPLIANT WITH THE ADMINISTRATION OF FEDERAL
11 STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE FEDERAL DIRECT LOAN
12 PROGRAM, THE CORPORATION SHALL BE AUTHORIZED TO REQUIRE SUCH AN EMPLOYEE
13 OR PROSPECTIVE EMPLOYEE TO SUBMIT TO THE CORPORATION OR OTHER STATE OR
14 FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS
15 IDENTIFYING INFORMATION, WHICH SHALL INCLUDE FINGERPRINTS, PERSONAL
16 INFORMATION, OR OTHER AUTHORIZATIONS, REQUIRED BY THE CORPORATION OR THE
17 DIVISION OF CRIMINAL JUSTICE SERVICES OR FEDERAL GOVERNMENT AGENCY
18 AUTHORIZED TO PERFORM SUCH INVESTIGATIONS. THE FINGERPRINTS SO OBTAINED
19 SHALL BE FORTHWITH FORWARDED TO THE DIVISION OF CRIMINAL JUSTICE
20 SERVICES FOR A STATE CRIMINAL HISTORY RECORD CHECK, AND THE FEDERAL
21 BUREAU OF INVESTIGATION OR OTHER FEDERAL GOVERNMENT AGENCY HAVING FACIL-
22 ITIES FOR CONDUCTING A NATIONAL CRIMINAL HISTORY RECORD CHECK, FOR THE
23 PURPOSES OF DETERMINING WHETHER OR NOT CRIMINAL CHARGES ARE PENDING
24 AGAINST THE EMPLOYEE OR PROSPECTIVE EMPLOYEE OR WHETHER OR NOT THE
25 EMPLOYEE OR PROSPECTIVE EMPLOYEE HAD PREVIOUSLY BEEN CONVICTED OF A
26 CRIME, AND SUCH AGENCY SHALL REPORT A FINDING OF SUCH PENDING CHARGES
27 AND PREVIOUS CONVICTIONS, IF ANY, TO THE CORPORATION IN WRITING OR BY
28 ELECTRONIC MEANS OR ANY OTHER METHOD AGREED UPON BY THE CORPORATION AND
29 THE AGENCY. ALL SUCH CRIMINAL HISTORY RECORDS OR OTHER BACKGROUND
30 INFORMATION RECEIVED BY THE CORPORATION SHALL BE CONFIDENTIAL PURSUANT
31 TO APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS, AND SHALL
32 NOT BE PUBLISHED OR IN ANY WAY DISCLOSED EXCEPT TO THOSE EMPLOYEES OF
33 THE CORPORATION RESPONSIBLE FOR EVALUATING THE INFORMATION OBTAINED OR
34 UPON THE REQUEST OF FEDERAL OFFICIALS RESPONSIBLE FOR ADMINISTRATION OF
35 A FEDERAL STUDENT LOAN PROGRAM. THE CORPORATION SHALL PROVIDE THE
36 SUBJECT OF THE CRIMINAL HISTORY CHECK OR CHECKS WITH A COPY OF ANY CRIM-
37 INAL HISTORY RECORD AND THE SUBJECT SHALL HAVE THE RIGHT TO SEEK
38 CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORDS PURSU-
39 ANT TO APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS.

40 S 2. This act shall take effect immediately.