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

8159--A

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 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. The education law is amended by adding a new section 652-a to read as follows:

S 652-A. EMPLOYEES OF THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION; BACKGROUND CHECKS. 1. CURRENT AND PROSPECTIVE EMPLOYEES OF THE CORPORATION SHALL BE SUBJECT TO BACKGROUND AND SECURITY CLEARANCE INVESTIGATIONS REQUIRED IN THE ORDINARY COURSE OF THE CORPORATION'S BUSINESS IF BACKGROUND AND SECURITY CLEARANCE ARE NECESSARY FOR EMPLOYEE PARTICIPATION OR PROPOSED PARTICIPATION IN THE ADMINISTRATION OF FEDERAL STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE FEDERAL DIRECT LOAN PROGRAM.

2. SUCH BACKGROUND OR SECURITY CLEARANCE INVESTIGATION SHALL BE PERFORMED BY THE CORPORATION OR ON BEHALF OF THE CORPORATION BY A STATE OR FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS. THE CORPORATION SHALL BE AUTHORIZED TO REQUEST AND RECEIVE FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES OR FEDERAL GOVERNMENT AGENCY HAVING FACILITIES FOR PERFORMING SUCH SERVICES: SECURITY CLEARANCE INFORMATION, INCLUDING CRIMINAL BACKGROUND AND CREDIT INFORMATION FOR CORPORATION EMPLOYEES, NEW YORK STATE EMPLOYEES SEEKING TRANSFER TO THE CORPORATION UNDER SECTION SEVENTY OF THE CIVIL SERVICE LAW, NEW YORK STATE EMPLOYEES SEEKING HIRE AT THE CORPORATION WHO ARE ON A PREFERRED LIST SUBJECT TO SECTION EIGHTY-ONE OF THE CIVIL SERVICE LAW, OR NEW YORK

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

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STATE EMPLOYEES SEEKING HIRE AT THE CORPORATION THROUGH THEIR PLACE ON AN ELIGIBLE LIST AS DEFINED IN SECTION FIFTY-SIX OF THE CIVIL SERVICE LAW AND WHO HAVE SUCCESSFULLY COMPLETED A PROMOTIONAL EXAM SUBJECT TO SECTION FIFTY-TWO OF THE CIVIL SERVICE LAW IF SUCH SECURITY INFORMATION IS NECESSARY FOR THE EMPLOYEES TO BE IN COMPLIANCE WITH THE ADMINISTRATION OF FEDERAL STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE FEDERAL DIRECT LOAN PROGRAM. THE CORPORATION SHALL INFORM SUBJECTS OF BACKGROUND AND SECURITY CLEARANCE INVESTIGATIONS OF THE FACTORS TO BE CONSIDERED IN THE EVALUATION OF THE CRIMINAL BACKGROUND INFORMATION AND CREDIT INFORMATION OBTAINED.

3. IF AN EMPLOYEE OR PROSPECTIVE EMPLOYEE NEEDS BACKGROUND AND SECURITY CLEARANCE IN ORDER TO BE COMPLIANT WITH THE ADMINISTRATION OF FEDERAL STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE FEDERAL DIRECT LOAN PROGRAM, THE CORPORATION SHALL BE AUTHORIZED TO REQUIRE SUCH AN EMPLOYEE OR PROSPECTIVE EMPLOYEE TO SUBMIT TO THE CORPORATION OR OTHER STATE OR FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS IDENTIFYING INFORMATION, WHICH SHALL INCLUDE FINGERPRINTS, PERSONAL INFORMATION, OR OTHER AUTHORIZATIONS, REQUIRED BY THE CORPORATION OR THE DIVISION OF CRIMINAL JUSTICE SERVICES OR FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS. THE FINGERPRINTS SO OBTAINED SHALL BE FORTHWITH FORWARDED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR A STATE CRIMINAL HISTORY RECORD CHECK, AND THE FEDERAL BUREAU OF INVESTIGATION OR OTHER FEDERAL GOVERNMENT AGENCY HAVING FACILITIES FOR CONDUCTING A NATIONAL CRIMINAL HISTORY RECORD CHECK, FOR THE PURPOSES OF DETERMINING WHETHER OR NOT CRIMINAL CHARGES ARE PENDING AGAINST THE EMPLOYEE OR PROSPECTIVE EMPLOYEE OR WHETHER OR NOT THE EMPLOYEE OR PROSPECTIVE EMPLOYEE HAD PREVIOUSLY BEEN CONVICTED OF A CRIME, AND SUCH AGENCY SHALL REPORT A FINDING OF SUCH PENDING CHARGES AND PREVIOUS CONVICTIONS, IF ANY, TO THE CORPORATION IN WRITING OR BY ELECTRONIC MEANS OR ANY OTHER METHOD AGREED UPON BY THE CORPORATION AND THE AGENCY. ALL SUCH CRIMINAL HISTORY RECORDS OR OTHER BACKGROUND INFORMATION RECEIVED BY THE CORPORATION SHALL BE CONFIDENTIAL PURSUANT TO APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN ANY WAY DISCLOSED EXCEPT TO THOSE EMPLOYEES OF THE CORPORATION RESPONSIBLE FOR EVALUATING THE INFORMATION OBTAINED OR UPON THE REQUEST OF FEDERAL OFFICIALS RESPONSIBLE FOR ADMINISTRATION OF A FEDERAL STUDENT LOAN PROGRAM. ALL DETERMINATIONS MADE PURSUANT TO THIS SECTION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW UNLESS SUCH PROVISIONS ARE IN DIRECT CONFLICT WITH FEDERAL LAW OR FEDERAL LOAN PROGRAM REQUIREMENTS. THE CORPORATION SHALL PROVIDE THE SUBJECT OF THE CRIMINAL HISTORY CHECK OR CHECKS WITH A COPY OF ANY CRIMINAL HISTORY RECORD TOGETHER WITH A COPY OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW AND INFORM SUCH APPLICANT OF HIS OR HER RIGHT TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD. THE SUBJECT SHALL HAVE THE RIGHT TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORDS PURSUANT TO APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS. THE CORPORATION SHALL BE RESPONSIBLE FOR ANY FEES ASSOCIATED WITH BACKGROUND AND SECURITY CHECKS REQUIRED BY THIS SECTION FOR CURRENT EMPLOYEES.

S 2. This act shall take effect immediately.