

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

3987--B

2011-2012 Regular Sessions

I N S E N A T E

March 11, 2011

Introduced by Sen. LAVALLE -- (at request of the Higher Education Services Corporation) -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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:

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

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

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1 LIST SUBJECT TO SECTION EIGHTY-ONE OF THE CIVIL SERVICE LAW, OR NEW YORK
2 STATE EMPLOYEES SEEKING HIRE AT THE CORPORATION THROUGH THEIR PLACE ON
3 AN ELIGIBLE LIST AS DEFINED IN SECTION FIFTY-SIX OF THE CIVIL SERVICE
4 LAW AND WHO HAVE SUCCESSFULLY COMPLETED A PROMOTIONAL EXAM SUBJECT TO
5 SECTION FIFTY-TWO OF THE CIVIL SERVICE LAW IF SUCH SECURITY INFORMATION
6 IS NECESSARY FOR THE EMPLOYEES TO BE IN COMPLIANCE WITH THE ADMINIS-
7 TRATION OF FEDERAL STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE
8 FEDERAL DIRECT LOAN PROGRAM. THE CORPORATION SHALL INFORM SUBJECTS OF
9 BACKGROUND AND SECURITY CLEARANCE INVESTIGATIONS OF THE FACTORS TO BE
10 CONSIDERED IN THE EVALUATION OF THE CRIMINAL BACKGROUND INFORMATION AND
11 CREDIT INFORMATION OBTAINED.

12 3. IF AN EMPLOYEE OR PROSPECTIVE EMPLOYEE NEEDS BACKGROUND AND SECURI-
13 TY CLEARANCE IN ORDER TO BE COMPLIANT WITH THE ADMINISTRATION OF FEDERAL
14 STUDENT LOANS OR OTHER FEDERAL PROGRAMS UNDER THE FEDERAL DIRECT LOAN
15 PROGRAM, THE CORPORATION SHALL BE AUTHORIZED TO REQUIRE SUCH AN EMPLOYEE
16 OR PROSPECTIVE EMPLOYEE TO SUBMIT TO THE CORPORATION OR OTHER STATE OR
17 FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS
18 IDENTIFYING INFORMATION, WHICH SHALL INCLUDE FINGERPRINTS, PERSONAL
19 INFORMATION, OR OTHER AUTHORIZATIONS, REQUIRED BY THE CORPORATION OR THE
20 DIVISION OF CRIMINAL JUSTICE SERVICES OR FEDERAL GOVERNMENT AGENCY
21 AUTHORIZED TO PERFORM SUCH INVESTIGATIONS. THE FINGERPRINTS SO OBTAINED
22 SHALL BE FORTHWITH FORWARDED TO THE DIVISION OF CRIMINAL JUSTICE
23 SERVICES FOR A STATE CRIMINAL HISTORY RECORD CHECK, AND THE FEDERAL
24 BUREAU OF INVESTIGATION OR OTHER FEDERAL GOVERNMENT AGENCY HAVING FACIL-
25 ITIES FOR CONDUCTING A NATIONAL CRIMINAL HISTORY RECORD CHECK, FOR THE
26 PURPOSES OF DETERMINING WHETHER OR NOT CRIMINAL CHARGES ARE PENDING
27 AGAINST THE EMPLOYEE OR PROSPECTIVE EMPLOYEE OR WHETHER OR NOT THE
28 EMPLOYEE OR PROSPECTIVE EMPLOYEE HAD PREVIOUSLY BEEN CONVICTED OF A
29 CRIME, AND SUCH AGENCY SHALL REPORT A FINDING OF SUCH PENDING CHARGES
30 AND PREVIOUS CONVICTIONS, IF ANY, TO THE CORPORATION IN WRITING OR BY
31 ELECTRONIC MEANS OR ANY OTHER METHOD AGREED UPON BY THE CORPORATION AND
32 THE AGENCY. ALL SUCH CRIMINAL HISTORY RECORDS OR OTHER BACKGROUND
33 INFORMATION RECEIVED BY THE CORPORATION SHALL BE CONFIDENTIAL PURSUANT
34 TO APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS, AND SHALL
35 NOT BE PUBLISHED OR IN ANY WAY DISCLOSED EXCEPT TO THOSE EMPLOYEES OF
36 THE CORPORATION RESPONSIBLE FOR EVALUATING THE INFORMATION OBTAINED OR
37 UPON THE REQUEST OF FEDERAL OFFICIALS RESPONSIBLE FOR ADMINISTRATION OF
38 A FEDERAL STUDENT LOAN PROGRAM. ALL DETERMINATIONS MADE PURSUANT TO
39 THIS SECTION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION
40 SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTI-
41 CLE TWENTY-THREE-A OF THE CORRECTION LAW UNLESS SUCH PROVISIONS ARE IN
42 DIRECT CONFLICT WITH FEDERAL LAW OR FEDERAL LOAN PROGRAM REQUIREMENTS.
43 THE CORPORATION SHALL PROVIDE THE SUBJECT OF THE CRIMINAL HISTORY CHECK
44 OR CHECKS WITH A COPY OF ANY CRIMINAL HISTORY RECORD TOGETHER WITH A
45 COPY OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW AND INFORM SUCH
46 APPLICANT OF HIS OR HER RIGHT TO SEEK CORRECTION OF ANY INCORRECT
47 INFORMATION CONTAINED IN SUCH RECORD. THE SUBJECT SHALL HAVE THE RIGHT
48 TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH
49 RECORDS PURSUANT TO APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS.
50 THE CORPORATION SHALL BE RESPONSIBLE FOR ANY FEES ASSOCIATED WITH BACK-
51 GROUND AND SECURITY CHECKS REQUIRED BY THIS SECTION FOR CURRENT EMPLOY-
52 EES.

53 S 2. This act shall take effect immediately.