

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

3987--A

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

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

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

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

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

42 S 2. This act shall take effect immediately.