STATE OF NEW YORK

8260

2017-2018 Regular Sessions

IN ASSEMBLY

June 2, 2017

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Banks

AN ACT to establish the task force on online lending institutions, and providing for its powers and duties; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative findings and intent. The legislature finds and declares that nationwide financial and technological firms have used electronic platforms to develop a completely new sector of business, known as online lending. The New York state economy, which is driven by a virtual presence on the internet, just like other businesses, has needs for capital to grow and prosper. The legislature further finds that in recent years, financial services have begun to use electronic platforms to reduce costs and expand availability and have specialized in providing small personal and commercial loans to residents and businesses in this state.

The legislature further finds that although online loans can provide another avenue for individuals and entrepreneurs to acquire capital and grow their small business, there is potential for unscrupulous online lenders to exploit consumers through predatory practices. While the state has an interest in fostering its economy and its businesses, it likewise has an interest in protecting its consumers and the well-being of its residents.

§ 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

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

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(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.

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.

§ 3. This act shall take effect immediately, and shall expire and be deemed repealed April 15, 2018.