STATE OF NEW YORK

3411

2017-2018 Regular Sessions

IN SENATE

January 23, 2017

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to creating an income driven repayment plan for private student loans held by New York state banking institutions

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 681-b to read as follows:

§ 681-b. Income-based repayment plan. 1. Definitions. As used in this section:

(a) "Adjusted gross income" or "AGI" shall mean the adjusted gross income as reported on the borrower's latest available state income tax return subject to any subsequent amendments or revisions. For a married borrower, filing jointly, AGI includes both the borrower's and spouse's income. For a married borrower filing separately, AGI includes only the borrower's income.

(b) "Eligible loan" shall mean any outstanding loan made by a private lender through a New York banking institution to a student who is a resident of and has attended an institution in this state or a parent of such a student.

(c) "Family size" shall mean the number that is determined by counting the borrower, the borrower's spouse, and the borrower's children, including unborn children who will be born during the year the borrower certifies family size, if the children receive more than half their support from the borrower. A borrower's family size includes other individuals if, at the time the borrower certifies family size, the other individuals:

(i) Live with the borrower; and

(ii) Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the

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

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borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, care, medical and dental care, and payment of college costs.

(d) "Partial financial hardship" shall mean a circumstance in which:

(i) For an unmarried borrower or a married borrower who files an individual state tax return, the annual amount due on all the borrower's eligible loans, as calculated under a ten-year standard repayment plan using the greater of the amount due at the time the borrower initially entered repayment or at the time the borrower elects the income-based repayment plan, exceeds fifteen percent of the difference between the borrower's AGI and one hundred fifty percent of the poverty guideline for the borrower's family size; or

(ii) For a married borrower who files a state tax return with his or her spouse, the annual amount due on all of the borrower's eligible loans and, if applicable, the spouse's eligible loans, as calculated under a ten-year standard repayment plan, using the greater of the amount due at the time the loans initially entered repayment or at the time the borrower or spouse elects the income-based repayment plan, exceeds fifteen percent of the difference between the borrower's and spouse's AGI, and one hundred fifty percent of the poverty guideline for the borrower's family size.

(e) "Poverty guideline" shall mean the income categorized by the state and family size in the poverty guidelines published annually by the United States department of health and human services and posted on the New York state department of health's website.

2. Qualifications. (a) The commissioner shall determine whether a borrower has a partial financial hardship to qualify for the income-based repayment plan for the year the borrower selects the plan and for each subsequent year that the borrower remains on the plan. To make this determination, the commissioner shall require the borrower to:

(i)(A) Provide written consent for the disclosure of the AGI and other tax return information by the department of taxation and finance to the commissioner. The borrower shall provide consent by signing a consent form and returning it to the commissioner;

(B) If a borrower's AGI is not available or the commissioner believes that the borrower's reported AGI does not reasonably reflect the borrower's current income, the commissioner may use other documentation provided by the borrower to verify income; and

(ii) Annually certify the borrower's family size. If the borrower fails to certify family size, the commissioner assumes a family size of one for that year.

(b) A borrower's aggregate monthly loan payment based on the borrower's income-based repayment plan may increase or decrease annually due to changes in the borrower's AGI and family size.

3. Terms of repayment plan. (a) A borrower may select the income-based repayment plan only if the borrower has a partial financial hardship. The borrower's aggregate monthly loan payments are limited to no more than the annual amount due based on a ten-year standard repayment period.

(b) If a borrower's aggregate monthly loan payments become larger than those calculated on a ten-year standard repayment plan, a borrower's aggregate monthly loan payment shall no longer be calculated according to the borrower's AGI and family size. The borrower's aggregate monthly loan payment will be calculated under the ten-year standard repayment plan, the amount of which shall be equal to the borrower's aggregate

monthly loan payment at the time the borrower initially selected the income-based repayment plan.

4. Loan forgiveness. (a) To qualify for loan forgiveness after ten years, a borrower must have participated in the income-based repayment plan and satisfied the following conditions during that period:

(i) While employed full time, the borrower made one hundred twenty on-time and separate monthly payments after October first, two thousand nine on the loans which the borrower is requesting to be forgiven.

(ii) All payments must have been made no later than fifteen days after the required due date and must have been paid for the full scheduled amount.

(b) Any amount that is forgiven may be subject to New York state income tax if there is a balance remaining at the end of the repayment period.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.