

STATE OF NEW YORK

5216

2021-2022 Regular Sessions

IN SENATE

February 26, 2021

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:

1 Section 1. The education law is amended by adding a new section 681-b
2 to read as follows:

3 § 681-b. Income-based repayment plan. 1. Definitions. As used in this
4 section:

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

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

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

22 (i) Live with the borrower; and

23 (ii) Receive more than half their support from the borrower and will
24 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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1 borrower certifies family size. Support includes money, gifts, loans,
2 housing, food, clothes, care, medical and dental care, and payment of
3 college costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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