

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number:** SB 1053

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Senator Howell

**3. Committee:** Education and Health

**4. Title:** Establish rules for student loan servicers and create a student loan ombudsman

**5. Summary:** This bill prohibits any person from acting as a student loan servicer without first obtaining a license from the State Corporation Commission (SCC). It also establishes procedures pertaining to such licenses. Banks and credit unions are exempt from the licensing provisions. The servicing of a student loan encompasses receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; and performing other administrative services with respect to a student education loan.

Student loan servicers are prohibited from, among other things:

- misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a student loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan;
- knowingly misapplying or recklessly applying student loan payments to the outstanding balance of a student loan; and
- failing to report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually if the loan servicer regularly reports information to such a credit bureau.

Finally, this proposed legislation establishes the Office of the Student Loan Ombudsman (OSLO) within the SCC's Bureau of Financial Institutions. The OSLO is required to provide timely assistance to any student loan borrower of any student education loan in the Commonwealth. The OSLO is further required to establish and maintain a student loan borrower education course, which will cover key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness, and disclosure requirements. Violations are subject to a civil penalty not exceeding \$2,500.

This bill has a delayed effective date of January 1, 2019.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary (see Section 8)

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017	\$0	0.0	NGF
2018	\$0	0.0	NGF
2019	\$123,500	1.0	NGF
2020	\$318,800	4.0	NGF
2021	\$397,000	5.0	NGF
2022	\$397,000	5.0	NGF
2023	\$397,000	5.0	NGF

**7b. Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017	\$0	NGF
2018	\$0	NGF
2019	\$123,500	NGF
2020	\$318,800	NGF
2021	\$397,000	NGF
2022	\$397,000	NGF
2023	\$397,000	NGF

- 8. Fiscal Implications:** The SCC conservatively estimates that in FY 2019, one FTE for an individual experienced in the area of student loan ombudsman and the corresponding nongeneral funds would be required to establish the OSLO and develop an online student loan borrower education course. For FY 2020, three additional FTEs (two entry level analysts for the OSLO and one for investigation of license applications) and the corresponding nongeneral funds would be necessary. For FY 2021, one FTE and the corresponding nongeneral funds for an entry level examiner position to receive training and become qualified to begin examining student loan servicer licensees would be required. If this program were to receive a favorable response from the student loan servicer industry, then it is possible that additional positions and funding would be necessary.

At this time, the SCC has no way of determining the number of interested parties who may wish to apply to be student loan servicers. However, as this bill is currently written, the revenues generated by charging nonrefundable license (\$1,000) and investigation (\$800) fees that are set by this bill, and an annual fee set by the SCC would be used to offset the costs associated with the implementation and operation of this program.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission and the Commission's Bureau of Financial Institutions

**10. Technical Amendment Necessary:** Yes.

- Lines 47 and 53 have dates (December 1, 2017 and January 1, 2018 respectively) inconsistent with the second enactment clause which states that the provisions of this act shall become effective on January 1, 2019.

- Line 184 states “within the Commonwealth”, however, it appears this bill would need to apply to any student loan servicer as defined in §6.2-2603, which is “any person, wherever located” – not just those located within Virginia.

**11. Other Comments:** Given that this bill sets the license and investigation fees, the amounts could not be changed without legislative action. HB 1915 is similar in concept to this bill except that HB 1915 provides the SCC the authority to set the licensing and investigation fees by rule or order. SB 1035 is also similar in that it sets the license and investigation fees. SB 1035 differs from this bill in that it establishes the OSLO in the State Council of Higher Education for Virginia and has an effective date of October 1, 2017.

Consideration might be given to add language permitting the SCC to use the Nationwide Multi-State Licensing System to process student loan servicer applications.

**Date:** 01/25/17

c: Secretary of Education