

State Corporation Commission 2018 Fiscal Impact Statement

1. **Bill Number:** HB967

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Simon

3. **Committee:** Commerce and Labor

4. **Title:** Qualified education loan servicers.

5. **Summary:** Prohibits any person from acting as a qualified education loan servicer without first obtaining a license from the State Corporation Commission (SCC) and establishes procedures pertaining to such licenses. Banks, credit unions, and nonprofit institutions of higher education are exempt from the licensing provisions. The servicing of a qualified education loan encompasses (i) receiving any scheduled periodic payments from a qualified education loan borrower pursuant to the terms of a qualified education loan; (ii) applying the payments of principal and interest and such other payments, with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan; and (iii) performing other administrative services with respect to a qualified education loan. Qualified education loan servicers are prohibited from, among other things, (a) misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a qualified education loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan; (b) knowingly misapplying or recklessly applying loan payments to the outstanding balance of a qualified education loan; and (c) 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. Violations are subject to a civil penalty not exceeding \$2,500. The bill has a delayed effective date of January 1, 2019, but provides that applications shall be accepted, and investigations commenced, by the SCC beginning October 1, 2018.

Qualified education 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 qualified education loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan;
- misapplying qualified education loan payments to the outstanding balance of a qualified education loan;
- 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 qualified education loan servicer regularly reports information to such a credit bureau; and

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- engaging in any other prohibited activities described in regulations.

However, all qualified education loan servicers are required to register with the Nationwide Mortgage Licensing System and Registry.

The SCC may, as often as deemed necessary, investigate a licensed qualified education loan servicer for any business practices for which a license is required. Examinations will be conducted at least once in a three-year period. In order to defray the costs associated with the examination, supervision, and regulation, every licensed qualified education loan servicer will pay an annual fee calculated in accordance with a schedule set by the SCC. The fees will be assessed on or before September 15 every year with payment being made to the State Treasurer on or before October 15 following each assessment. The SCC will also be reimbursed for actual travel and reasonable living expenses incurred during the examination.

This bill has a delayed effective date of January 1, 2019; however, the SCC shall begin accepting applications for licenses beginning October 1, 2018. By November 1, 2020, the SCC must submit a report to the House and Senate Committees on Commerce and Labor, House Committee on Education, and Senate Committee on Education and Health that includes:

- the volume and severity of complaints involving qualified education loans that are investigated by the SCC;
- the number of licenses issued and the number of applications for a license denied;
- the number of licensees that filed a written report with the SCC pursuant to Section 6.2-2608 and the events triggering the report;
- the number and nature of complaints received from qualified education loan borrowers;
- the number of investigations and examinations resulting from complaints and violations and their resolution.

6. Budget Amendment Necessary: Yes, the SCC will need additional appropriation for the new positions being added. Item 477 of the 2018-2020 Biennium Budget bills (HB30 and SB30) for Fiscal Years 2019 and 2020 will need to be amended.

7. Fiscal Impact Estimates: Preliminary (see Item 8).

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7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2018 | \$0 | 0 | - |
| 2019 | \$168,600 | 2.0 | NGF |
| 2020 | \$246,800 | 3.0 | NGF |
| 2021 | \$246,800 | 3.0 | NGF |
| 2022 | \$246,800 | 3.0 | NGF |
| 2023 | \$246,800 | 3.0 | NGF |
| 2024 | \$246,800 | 3.0 | NGF |

7b. Revenue Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| 2018 | \$0 | - |
| 2019 | \$168,600 | NGF |
| 2020 | \$246,600 | NGF |
| 2021 | \$246,800 | NGF |
| 2022 | \$246,800 | NGF |
| 2023 | \$246,800 | NGF |
| 2024 | \$246,800 | NGF |

8. Fiscal Implications: For FY 2019, the SCC estimates one position to receive and investigate license applications (\$65,100). Having an individual in place and processing license applications from qualified education loan servicers is necessary to meet this bill's October 1, 2018 date for accepting such applications for licensure. Also in FY 2019, an additional individual with knowledge and expertise of the qualified education loan industry would be necessary to serve as program manager as well as receive consumer complaints and provide assistance in examinations (\$103,500). By FY 2020, a trained entry level examiner would be required to examine qualified education loan servicer licensees (\$78,200).

The revenues generated by the SCC's charging nonrefundable license and investigation fees as well as an annual fee would be used to offset the costs associated with the operation of this program. However, until sufficient fees are collected, the SCC would have to redirect other resources to implement this program and support the positions. Assuming a favorable response from the qualified education loan servicer industry, additional positions and funding might be necessary.

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

10. Technical Amendment Necessary: From a regulatory perspective, the Bureau of Financial Institutions has determined that the bill needs an amendment in the nature of a substitute for the Bureau to properly administer its provisions. Bureau staff is working with the bill patrons, the Governor's Office and the Department of Education in this regard.

11. Other Comments: Also see Senate Bill 362.

1/18/18 EJJ