



Wednesday, May 2, 2007

## Bill Text - A07498

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Bill Summary](#)

S T A T E O F N E W Y O R K

7498

2007-2008 Regular Sessions

I N A S S E M B L Y

April 17, 2007

Introduced by M. of A. GLICK, SILVER, CANESTRARI, FARRELL -- Multi-Sponsored by -- M. of A. ABBATE, ALESSI, ARROYO, AUBERTINE, AUBRY, BENEDETTO, BING, BRADLEY, BRENNAN, BROOK-KRASNY, CAHILL, CARROZZA, CHRISTENSEN, CLARK, COOK, CUSICK, CYMBROWITZ, DeLMONTE, DESTITO, L. DIAZ, R. DIAZ, EDDINGTON, ENGLEBRIGHT, ESPAILLAT, FIELDS, GABRYSZAK, GALEF, GANTT, GIANARIS, T. GORDON, GOTTFRIED, GREENE, GUNTHER, HYER-SPENCER, JAFFEE, JEFFRIES, JOHN, KOON, LAFAYETTE, LATIMER, LAVINE, LENTOL, LIFTON, MAGEE, MAGNARELLI, MARKEY, McENENY, MILLMAN, MORELLE, NOLAN, ORTIZ, PEOPLES, PERALTA, PHEFFER, PRETLOW, RAMOS, REILLY, P. RIVERA, SEMINERIO, STIRPE, SWEENEY, TITONE, TONKO, WEINSTEIN, WEISENBERG -- (at request of the Department of Law) -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to protecting students and parents from being steered by lenders and institutions of higher learning into student loans laden with conflicts of interest; and to amend the state finance law, in relation to establishing the student lending education account

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 article 13-B  
2 to read as follows:

3

ARTICLE 13-B

4

STUDENT LENDING ACCOUNTABILITY,

## TRANSPARENCY AND ENFORCEMENT ACT

## SECTION 620. DEFINITIONS.

621. PROHIBITION OF GIFTS MADE BY LENDING INSTITUTIONS TO COVERED INSTITUTIONS AND THEIR EMPLOYEES.

622. PROHIBITION OF RECEIPT OF GIFTS BY COVERED INSTITUTIONS.

623. PROHIBITION OF RECEIPT OF GIFTS BY COVERED INSTITUTION EMPLOYEES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD11243-02-7

A. 7498

2

624. COVERED INSTITUTION EMPLOYEE PROHIBITIONS AND REPORTING REQUIREMENTS.

625. MISLEADING IDENTIFICATION OF LENDING INSTITUTIONS` EMPLOYEES.

626. LOAN DISCLOSURE AND PROHIBITION OF QUID PRO QUO HIGH RISK LOANS.

627. STANDARDS FOR PREFERRED LENDER LISTS.

628. PROPER EXECUTION OF MASTER PROMISSORY NOTES.

629. DISCLOSURES AT REQUEST OF COVERED INSTITUTIONS.

630. PENALTIES.

631. RULES AND REGULATIONS.

S 620. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS OTHERWISE SPECIFIED:

1. "BORROWER" SHALL MEAN A STUDENT ATTENDING A COVERED INSTITUTION IN THIS STATE, OR A PARENT OR PERSON IN PARENTAL RELATION TO SUCH STUDENT, WHO ALSO OBTAINS AN EDUCATIONAL LOAN FROM A LENDING INSTITUTION TO PAY FOR OR FINANCE HIGHER EDUCATION EXPENSES.

2. "COVERED INSTITUTION" SHALL MEAN ANY COLLEGE, VOCATIONAL INSTITUTION, OR APPROVED PROGRAM AS DEFINED IN SECTION SIX HUNDRED ONE OF THIS TITLE.

3. "COVERED INSTITUTION EMPLOYEE" SHALL MEAN ANY EMPLOYEE, AGENT, CONTRACTOR, DIRECTOR, OFFICER OR TRUSTEE OF A COVERED INSTITUTION.

4. "EDUCATIONAL LOAN" SHALL MEAN ANY LOAN THAT IS MADE, INSURED, OR GUARANTEED UNDER TITLE IV OF THE FEDERAL HIGHER EDUCATION ACT OF NINETEEN HUNDRED SIXTY-FIVE, AS AMENDED, ANY HIGH RISK LOAN OR ANY PRIVATE LOAN ISSUED BY A LENDING INSTITUTION FOR THE PURPOSES OF PAYING FOR OR FINANCING HIGHER EDUCATION EXPENSES.

5. "GIFT" SHALL MEAN ANY DISCOUNT, FAVOR, GRATUITY, INDUCEMENT, LOAN, STOCK, THING OF VALUE, OR OTHER ITEM HAVING A MONETARY VALUE OF MORE THAN TEN DOLLARS.

A. THE TERM "GIFT" SHALL INCLUDE, BUT IS NOT LIMITED TO:

(1) ANY MONEY, SERVICE, LOAN, ENTERTAINMENT, HONORARIA, HOSPITALITY, LODGING COSTS, MEALS, REGISTRATION FEES, TRAVEL EXPENSES, DISCOUNT, FORBEARANCE OR PROMISE;

(2) GIFTS PROVIDED IN KIND, BY PURCHASE OF A TICKET, PAYMENT IN ADVANCE, OR REIMBURSEMENT AFTER EXPENSES HAVE BEEN INCURRED;

37 (3) ANY COMPUTER HARDWARE FOR WHICH THE RECIPIENT PAYS BELOW-MARKET  
38 PRICES;

39 (4) ANY PRINTING COSTS OR SERVICES.

40 B. THE TERM "GIFT" SHALL NOT INCLUDE ANY OF THE FOLLOWING:

41 (1) A LENDING INSTITUTION'S OWN BROCHURE OR PROMOTIONAL LITERATURE;

42 (2) FOOD, REFRESHMENTS, TRAINING, OR INFORMATIONAL MATERIAL FURNISHED  
43 TO A COVERED INSTITUTION EMPLOYEE AS AN INTEGRAL PART OF A TRAINING  
44 SESSION, IF SUCH TRAINING CONTRIBUTES TO THE PROFESSIONAL DEVELOPMENT OF  
45 THE COVERED INSTITUTION EMPLOYEE.

46 6. "HIGH RISK LOANS" SHALL MEAN ANY AGREEMENT BETWEEN A LENDING INSTI-  
47 TUTION AND A COVERED INSTITUTION THAT PROVIDES FOR THE LENDING INSTITU-  
48 TION TO PROVIDE LOANS TO STUDENTS WITH A POOR OR NO CREDIT HISTORY, WHO  
49 WOULD OTHERWISE NOT BE ELIGIBLE FOR EDUCATIONAL LOANS.

50 7. "HIGHER EDUCATION EXPENSES" SHALL INCLUDING THE FOLLOWING:

51 A. TUITION AND FEES;

52 B. COSTS INCURRED FOR BOOKS, SUPPLIES, TRANSPORTATION, AND MISCELLA-  
53 NEOUS PERSONAL EXPENSES; AND

54 C. ROOM AND BOARD COSTS.

55 8. "LENDING INSTITUTION" SHALL MEAN:

A. 7498

3

1 A. ANY ENTITY THAT ITSELF OR THROUGH AN AFFILIATE MAKES EDUCATIONAL  
2 LOANS TO PAY FOR OR FINANCE HIGHER EDUCATION EXPENSES OR THAT SECURI-  
3 TIZES SUCH LOANS;

4 B. ANY ENTITY, OR ASSOCIATION OF ENTITIES, THAT GUARANTEES EDUCATIONAL  
5 LOANS; OR

6 C. ANY INDUSTRY, TRADE OR PROFESSIONAL ASSOCIATION OR OTHER ENTITY  
7 THAT RECEIVES MONEY FROM ANY ENTITY DESCRIBED ABOVE IN PARAGRAPHS A AND  
8 B OF THIS SUBDIVISION.

9 9. "PREFERRED LENDER LIST" SHALL MEAN A LIST OF ONE OR MORE RECOM-  
10 MENDED OR SUGGESTED LENDING INSTITUTIONS THAT A COVERED INSTITUTION  
11 MAKES AVAILABLE FOR USE, IN PRINT OR ANY OTHER MEDIUM OR FORM, BY  
12 BORROWERS, PROSPECTIVE BORROWERS OR OTHERS.

13 10. "REVENUE SHARING" SHALL MEAN ANY ARRANGEMENT WHEREBY A LENDING  
14 INSTITUTION PAYS A COVERED INSTITUTION OR AN AFFILIATED ENTITY OR ORGAN-  
15 IZATION OF SUCH COVERED INSTITUTION A PERCENTAGE OF THE PRINCIPAL OF  
16 EACH LOAN DIRECTED TOWARDS THE LENDING INSTITUTION FROM A BORROWER AT  
17 THE COVERED INSTITUTION.

18 S 621. PROHIBITION OF GIFTS MADE BY LENDING INSTITUTIONS TO COVERED  
19 INSTITUTIONS AND THEIR EMPLOYEES. 1. A LENDING INSTITUTION MAY NOT,  
20 DIRECTLY OR INDIRECTLY, OFFER OR PROVIDE ANY GIFT TO A COVERED INSTITU-  
21 TION OR A COVERED INSTITUTION EMPLOYEE, IN EXCHANGE FOR ANY ADVANTAGE OR  
22 CONSIDERATION PROVIDED TO SUCH LENDING INSTITUTION RELATED TO ITS EDUCA-  
23 TIONAL LOAN ACTIVITIES.

24 2. A LENDING INSTITUTION MAY NOT ENGAGE IN REVENUE SHARING WITH A  
25 COVERED INSTITUTION.

26 S 622. PROHIBITION OF RECEIPT OF GIFTS BY COVERED INSTITUTIONS. 1. A  
27 COVERED INSTITUTION MAY NOT, DIRECTLY OR INDIRECTLY, SOLICIT, ACCEPT OR  
28 RECEIVE ANY GIFT FROM OR ON BEHALF OF A LENDING INSTITUTION, IN EXCHANGE

29 FOR ANY ADVANTAGE OR CONSIDERATION PROVIDED TO SUCH LENDING INSTITUTION  
30 RELATED TO ITS EDUCATIONAL LOAN ACTIVITIES.

31 2. A COVERED INSTITUTION MAY NOT ENGAGE IN REVENUE SHARING WITH A  
32 LENDING INSTITUTION.

33 S 623. PROHIBITION OF RECEIPT OF GIFTS BY COVERED INSTITUTION EMPLOY-  
34 EES. 1. A COVERED INSTITUTION SHALL REQUIRE THAT NO COVERED INSTITUTION  
35 EMPLOYEE ON HIS OR HER OWN BEHALF OR ON BEHALF OF ANOTHER, DIRECTLY OR  
36 INDIRECTLY, SOLICITS, ACCEPTS OR RECEIVES ANY GIFT FROM OR ON BEHALF OF  
37 A LENDING INSTITUTION. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS  
38 PROHIBITING A COVERED INSTITUTION EMPLOYEE FROM CONDUCTING BUSINESS WITH  
39 A LENDING INSTITUTION, PROVIDED THAT SUCH BUSINESS IS UNRELATED IN ANY  
40 MANNER WHATSOEVER TO A COVERED INSTITUTION.

41 2. A COVERED INSTITUTION EMPLOYEE, ON HIS OR HER OWN BEHALF OR ON  
42 BEHALF OF ANOTHER, SHALL NOT DIRECTLY OR INDIRECTLY SOLICIT, ACCEPT OR  
43 RECEIVE ANY GIFT FROM OR ON BEHALF OF A LENDING INSTITUTION. NOTHING IN  
44 THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A COVERED INSTITUTION  
45 EMPLOYEE FROM CONDUCTING BUSINESS WITH ANY LENDING INSTITUTION, PROVIDED  
46 THAT SUCH BUSINESS IS UNRELATED IN ANY MANNER WHATSOEVER WITH THE  
47 COVERED INSTITUTION.

48 3. COVERED INSTITUTION EMPLOYEES SHALL REPORT TO THE DEPARTMENT ANY  
49 INSTANCE OF A LENDING INSTITUTION ATTEMPTING TO GIVE A GIFT TO SUCH  
50 COVERED INSTITUTION EMPLOYEES.

51 S 624. COVERED INSTITUTION EMPLOYEE PROHIBITIONS AND REPORTING  
52 REQUIREMENTS. 1. A LENDING INSTITUTION SHALL REQUIRE THAT NO COVERED  
53 INSTITUTION EMPLOYEE RECEIVES ANY REMUNERATION FOR SERVING AS A MEMBER  
54 OR PARTICIPANT OF AN ADVISORY BOARD OF A LENDING INSTITUTION OR RECEIVES  
55 ANY REIMBURSEMENT OF EXPENSES FOR SO SERVING.

A. 7498

4

1 2. A COVERED INSTITUTION SHALL REQUIRE THAT NO COVERED INSTITUTION  
2 EMPLOYEE OF SUCH COVERED INSTITUTION RECEIVES ANY REMUNERATION FOR SERV-  
3 ING AS A MEMBER OR PARTICIPANT OF AN ADVISORY BOARD OF A LENDING INSTI-  
4 TUTION OR RECEIVES ANY REIMBURSEMENT OF EXPENSES FOR SO SERVING.

5 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING:

6 A. A COVERED INSTITUTION EMPLOYEE`S PARTICIPATION ON AN ADVISORY BOARD  
7 OF A LENDING INSTITUTION THAT IS UNRELATED IN ANY MANNER WHATSOEVER TO  
8 EDUCATIONAL LOANS; OR

9 B. A COVERED INSTITUTION EMPLOYEE, WHO DOES NOT HAVE A DIRECT INTEREST  
10 IN OR DOES NOT BENEFIT FROM THE FUNCTIONS OF THE COVERED INSTITUTION`S  
11 FINANCIAL AID OFFICE, FROM SERVING ON A BOARD OF DIRECTORS OF A PUBLICLY  
12 TRADED OR PRIVATELY HELD COMPANY.

13 4. COVERED INSTITUTION EMPLOYEES WHO ARE DIRECTLY INVOLVED WITH OR  
14 BENEFIT FROM THE FUNCTIONS OF THE COVERED INSTITUTION`S FINANCIAL AID  
15 OFFICE SHALL BE REQUIRED TO REPORT TO THE DEPARTMENT, IN A FORM AND  
16 MANNER PRESCRIBED BY THE DEPARTMENT, ALL PARTICIPATION OR FINANCIAL  
17 INTERESTS RELATED TO ANY LENDING INSTITUTION.

18 S 625. MISLEADING IDENTIFICATION OF LENDING INSTITUTIONS` EMPLOYEES.  
19 1. A LENDING INSTITUTION SHALL REQUIRE THAT NO EMPLOYEE OR AGENT OF  
20 SUCH LENDING INSTITUTION IS IDENTIFIED TO BORROWERS OR PROSPECTIVE

21 BORROWERS OF A COVERED INSTITUTION AS AN EMPLOYEE, REPRESENTATIVE OR  
22 AGENT OF SUCH COVERED INSTITUTION.

23 2. A COVERED INSTITUTION SHALL REQUIRE THAT NO EMPLOYEE OR AGENT OF A  
24 LENDING INSTITUTION IS IDENTIFIED TO BORROWERS OR PROSPECTIVE BORROWERS  
25 OF SUCH COVERED INSTITUTION AS AN EMPLOYEE, REPRESENTATIVE OR AGENT OF  
26 SUCH COVERED INSTITUTION.

27 3. NO EMPLOYEE, REPRESENTATIVE OR AGENT OF A LENDING INSTITUTION MAY  
28 STAFF A COVERED INSTITUTION'S FINANCIAL AID OFFICES.

29 S 626. LOAN DISCLOSURE AND PROHIBITION OF QUID PRO QUO HIGH RISK  
30 LOANS. 1. A COVERED INSTITUTION SHALL INFORM THE BORROWER OR PROSPEC-  
31 TIVE BORROWER OF ALL AVAILABLE FINANCING OPTIONS UNDER TITLE IV OF THE  
32 FEDERAL HIGHER EDUCATION ACT OF NINETEEN HUNDRED SIXTY-FIVE, AS AMENDED,  
33 INCLUDING INFORMATION ON ANY TERMS AND CONDITIONS OF AVAILABLE LOANS  
34 UNDER SUCH TITLE THAT ARE MORE FAVORABLE TO THE BORROWER, BEFORE A LEND-  
35 ING INSTITUTION MAY PROVIDE A PRIVATE EDUCATIONAL LOAN TO A BORROWER  
36 ATTENDING A COVERED INSTITUTION WITH WHICH A LENDING INSTITUTION HAS AN  
37 EDUCATIONAL LOAN ARRANGEMENT.

38 2. A LENDING INSTITUTION SHALL NOT ENTER INTO AN AGREEMENT OR OTHER-  
39 WISE PROVIDE ANY HIGH RISK LOANS, IN EXCHANGE FOR THE COVERED INSTITU-  
40 TION PROVIDING CONCESSIONS OR PROMISES TO THE LENDING INSTITUTION THAT  
41 MAY PREJUDICE OTHER BORROWERS OR PROSPECTIVE BORROWERS.

42 3. A COVERED INSTITUTION SHALL NOT ENTER INTO AN AGREEMENT OR OTHER-  
43 WISE PROVIDE ANY HIGH RISK LOANS, IN EXCHANGE FOR THE COVERED INSTITU-  
44 TION PROVIDING CONCESSIONS OR PROMISES TO THE LENDING INSTITUTION THAT  
45 MAY PREJUDICE OTHER BORROWERS OR PROSPECTIVE BORROWERS.

46 S 627. STANDARDS FOR PREFERRED LENDER LISTS. A COVERED INSTITUTION  
47 THAT PROVIDES OR MAKES AVAILABLE A PREFERRED LENDER LIST MUST COMPLY  
48 WITH THE FOLLOWING STANDARDS:

49 1. A PREFERRED LENDER LIST MUST DISCLOSE THE PROCESS BY WHICH THE  
50 COVERED INSTITUTION SELECTED LENDING INSTITUTIONS FOR SUCH PREFERRED  
51 LENDER LIST, INCLUDING, BUT NOT LIMITED TO, THE METHOD AND CRITERIA USED  
52 TO CHOOSE THE LENDING INSTITUTIONS AND THE RELATIVE IMPORTANCE OF THOSE  
53 CRITERIA;

54 2. A PREFERRED LENDER LIST MUST STATE IN THE SAME FONT SIZE AND SAME  
55 MANNER AS THE PREDOMINANT TEXT ON THE DOCUMENT THAT BORROWERS HAVE THE  
56 RIGHT AND ABILITY TO SELECT THE EDUCATION LOAN PROVIDER OF THEIR CHOICE,

A. 7498

5

1 ARE NOT REQUIRED TO USE ANY OF THE LENDERS ON SUCH PREFERRED LENDER  
2 LIST, AND WILL SUFFER NO PENALTY FOR CHOOSING A LENDER THAT IS NOT ON  
3 SUCH PREFERRED LENDER LIST;

4 3. THE COVERED INSTITUTION'S DECISION TO INCLUDE A LENDING INSTITUTION  
5 ON ANY PREFERRED LENDER LIST AND THE COVERED INSTITUTION'S DECISION AS  
6 TO WHERE ON THE PREFERRED LENDER LIST THE LENDING INSTITUTION'S NAME  
7 APPEARS SHALL BE DETERMINED SOLELY BY CONSIDERATION OF THE BEST INTER-  
8 ESTS OF THE BORROWERS WHO MAY USE SUCH PREFERRED LENDER LIST WITHOUT  
9 REGARD TO THE PECUNIARY INTERESTS OF THE COVERED INSTITUTION;

10 4. THE CONTENTS OF ANY PREFERRED LENDER LIST SHALL BE REVIEWED AND  
11 UPDATED NO LESS THAN ANNUALLY;

12 5. NO LENDING INSTITUTION SHALL BE PLACED ON A PREFERRED LENDER LIST  
13 UNLESS SUCH LENDING INSTITUTION PROVIDES ASSURANCE TO THE COVERED INSTI-  
14 TUTION AND TO BORROWERS WHO TAKE OUT LOANS FROM SUCH LENDING INSTITUTION  
15 THAT THE ADVERTISED BENEFITS UPON REPAYMENT WILL CONTINUE TO INURE TO  
16 THE BENEFIT OF BORROWERS REGARDLESS OF WHETHER THE LENDING INSTITUTION'S  
17 LOANS ARE SOLD;

18 6. NO LENDING INSTITUTION THAT, TO THE COVERED INSTITUTION'S KNOWLEDGE  
19 AFTER REASONABLE INQUIRY, HAS AN AGREEMENT TO SELL ITS LOANS TO ANOTHER  
20 UNAFFILIATED LENDING INSTITUTION SHALL BE INCLUDED ON A PREFERRED LENDER  
21 LIST UNLESS SUCH AGREEMENT IS DISCLOSED THEREIN IN THE SAME FONT SIZE  
22 AND SAME MANNER AS THE PREDOMINANT TEXT ON THE DOCUMENT IN WHICH THE  
23 PREFERRED LENDER LIST APPEARS;

24 7. NO LENDING INSTITUTION SHALL BE PLACED ON A COVERED INSTITUTION'S  
25 PREFERRED LENDER LISTS OR IN FAVORED PLACEMENT ON A COVERED INSTI-  
26 TUTION'S PREFERRED LENDER LISTS FOR A PARTICULAR TYPE OF LOAN, IN  
27 EXCHANGE FOR BENEFITS PROVIDED TO THE COVERED INSTITUTION OR TO THE  
28 COVERED INSTITUTION'S STUDENTS IN CONNECTION WITH A DIFFERENT TYPE OF  
29 LOAN.

30 S 628. PROPER EXECUTION OF MASTER PROMISSORY NOTES. A COVERED INSTI-  
31 TUTION SHALL NOT DIRECT IN ANY MANNER WHATSOEVER POTENTIAL BORROWERS TO  
32 ANY ELECTRONIC MASTER PROMISSORY NOTES OR OTHER LOAN AGREEMENTS THAT DO  
33 NOT ALLOW THE BORROWER TO ENTER THE LENDER CODE OR NAME FOR ANY LENDING  
34 INSTITUTION OFFERING THE RELEVANT LOAN.

35 S 629. DISCLOSURES AT REQUEST OF COVERED INSTITUTIONS. EXCEPT FOR  
36 EDUCATIONAL LOANS MADE, INSURED, OR GUARANTEED BY THE FEDERAL GOVERN-  
37 MENT, UPON THE REQUEST OF ANY COVERED INSTITUTION, A LENDING INSTITUTION  
38 SHALL DISCLOSE TO SUCH COVERED INSTITUTION, IN REASONABLE DETAIL AND  
39 FORM, THE HISTORIC DEFAULT RATES OF THE BORROWERS FROM SUCH COVERED  
40 INSTITUTION, AND THE RATES OF INTEREST CHARGED TO BORROWERS FROM SUCH  
41 COVERED INSTITUTION IN THE YEAR PRECEDING THE DISCLOSURES AND THE NUMBER  
42 OF BORROWERS OBTAINING EACH RATE OF INTEREST.

43 S 630. PENALTIES. 1. IF AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR  
44 A HEARING THE DEPARTMENT DETERMINES THAT A COVERED INSTITUTION OR LEND-  
45 ING INSTITUTION HAS VIOLATED A TERM OR PROVISION OF THIS ARTICLE, THEN  
46 THE COVERED INSTITUTION OR LENDING INSTITUTION MAY BE LIABLE FOR A CIVIL  
47 PENALTY OF UP TO FIFTY THOUSAND DOLLARS. IN TAKING ACTION AGAINST A  
48 COVERED INSTITUTION OR LENDING INSTITUTION, CONSIDERATION SHALL BE GIVEN  
49 TO THE NATURE AND SEVERITY OF A VIOLATION OF THIS ARTICLE.

50 2. IF AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR A HEARING THE  
51 DEPARTMENT DETERMINES THAT A COVERED INSTITUTION EMPLOYEE HAS VIOLATED A  
52 TERM OR PROVISION OF THIS ARTICLE, THEN THE COVERED INSTITUTION EMPLOYEE  
53 MAY BE LIABLE FOR A CIVIL PENALTY OF UP TO SEVEN THOUSAND FIVE HUNDRED  
54 DOLLARS. IN TAKING ACTION AGAINST A COVERED INSTITUTION EMPLOYEE,  
55 CONSIDERATION SHALL BE GIVEN TO THE NATURE AND SEVERITY OF A VIOLATION  
56 OF THIS ARTICLE.

A. 7498

6

1 3. IF AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR A HEARING THE  
2 DEPARTMENT DETERMINES THAT A LENDING INSTITUTION HAS VIOLATED A TERM OR

3 PROVISION OF THIS ARTICLE, SUCH LENDING INSTITUTION SHALL NOT BE PLACED  
4 OR REMAIN ON ANY COVERED INSTITUTION'S PREFERRED LENDER LIST UNLESS  
5 NOTICE OF SUCH VIOLATION IS PROVIDED TO ALL POTENTIAL BORROWERS OF THE  
6 COVERED INSTITUTION.

7 4. NOTHING IN THIS SECTION SHALL PROHIBIT THE DEPARTMENT FROM REACH-  
8 ING A SETTLEMENT AGREEMENT WITH A COVERED INSTITUTION, COVERED INSTITU-  
9 TION EMPLOYEE OR LENDING INSTITUTION IN ORDER TO EFFECTUATE THE PURPOSES  
10 OF THIS SECTION. PROVIDED, HOWEVER, IF SUCH SETTLEMENT AGREEMENT IS  
11 REACHED WITH A COVERED INSTITUTION OR LENDING INSTITUTION, THE DEPART-  
12 MENT SHALL PROVIDE NOTICE OF SUCH ACTION TO THE BORROWERS IN A FORM AND  
13 MANNER PRESCRIBED BY THE DEPARTMENT.

14 5. THE DEPARTMENT SHALL DEPOSIT THE FUNDS GENERATED FROM THIS SECTION  
15 INTO THE STUDENT LENDING EDUCATION ACCOUNT, CREATED BY SECTION  
16 NINETY-SEVEN-HHHH OF THE STATE FINANCE LAW. SUCH FUNDS SHALL BE GIVEN TO  
17 COVERED INSTITUTIONS UPON APPLICATION TO THE DEPARTMENT FOR THE PURPOSES  
18 OF:

19 A. EDUCATING BORROWERS AND PROSPECTIVE BORROWERS ON THE LOAN PROCESS  
20 INCLUDING BUT NOT LIMITED TO AVAILABLE LOAN OPTIONS, UNDERSTANDING RATES  
21 AND TERMS OF STUDENT LOANS, MANAGING COSTS AND CREDIT RESPONSIBILITIES,  
22 STUDENT LOAN REPAYMENT AND LOAN CONSOLIDATION; AND

23 B. REIMBURSING BORROWERS FROM INFLATED LOAN PRICES CAUSED BY REVENUE  
24 SHARING AGREEMENTS BETWEEN SUCH COVERED INSTITUTION AND A LENDING INSTI-  
25 TUTION.

26 S 631. RULES AND REGULATIONS. THE COMMISSIONER AND THE DEPARTMENT  
27 SHALL PROMULGATE RULES AND REGULATIONS NECESSARY FOR THE IMPLEMENTATION  
28 OF THIS ARTICLE.

29 S 2. The state finance law is amended by adding a new section 97-hhhh  
30 to read as follows:

31 S 97-HHHH. THE STUDENT LENDING EDUCATION ACCOUNT. 1. THERE IS HEREBY  
32 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE  
33 COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT TO BE KNOWN AS THE  
34 STUDENT LENDING EDUCATION ACCOUNT.

35 2. SUCH ACCOUNT SHALL CONSIST OF ALL REVENUES GENERATED PURSUANT TO  
36 SECTION SIX HUNDRED THIRTY OF THE EDUCATION LAW AND ALL OTHER MONEYS  
37 CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT  
38 TO LAW.

39 3. MONEYS OF THE ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE  
40 SHALL BE MADE AVAILABLE TO THE STATE EDUCATION DEPARTMENT FOR THE  
41 PURPOSES OF: (A) SUPPORTING PROGRAMS THAT EDUCATE STUDENTS, PROSPECTIVE  
42 STUDENTS, AND PARENTS OF SUCH STUDENTS ON THE LOAN PROCESS INCLUDING BUT  
43 NOT LIMITED TO AVAILABLE LOAN OPTIONS, UNDERSTANDING RATES AND TERMS OF  
44 STUDENT LOANS; AND (B) REIMBURSING STUDENTS FROM INFLATED LOAN PRICES  
45 CAUSED BY REVENUE SHARING AGREEMENTS BETWEEN SUCH COVERED INSTITUTION  
46 AND A LENDING INSTITUTION. MONEY SHALL BE PAID OUT OF THE ACCOUNT ON  
47 THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR  
48 APPROVED BY THE STATE EDUCATION DEPARTMENT.

49 S 3. This act shall take effect on the thirtieth day after it shall  
50 have become a law.