

8938

I N A S S E M B L Y

January 8, 2018

Introduced by M. of A. ZEBROWSKI -- read once and referred to the
Committee on Banks

AN ACT to amend a chapter of the laws of 2017, relating to establishing the task force on online lending institutions, and providing for its powers and duties, as proposed in legislative bills numbers S. 6593-A and A. 8260-A, in relation to directing the department of financial services to study, evaluate and make recommendations concerning online lending institutions and the effectiveness thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2 of a chapter of the laws of 2017, relating to
2 establishing the task force on online lending institutions, and provid-
3 ing for its powers and duties, as proposed in legislative bills numbers
4 S. 6593-A and A. 8260-A, is amended to read as follows:
5 S 2. [Task force on online lending institutions. 1. There is hereby
6 established a task force on online lending institutions (hereinafter
7 referred to in this section as the "task force") which shall consist of
8 seven members as follows:
9 (a) three members appointed by the governor;
10 (b) two members appointed by the temporary president of the senate;
11 and
12 (c) two members appointed by the speaker of the assembly.
13 2. The appointed members should include individuals representative of
14 the online lending community, the small business community, the finan-
15 cial services industry, and the consumer protection community. Appoint-
16 ments shall take into consideration the expertise of the other appoint-
17 ees, so that the task force reflects a diversity of experience.
18 3. The members of the task force shall receive no compensation for
19 their services, but shall be allowed their actual and necessary expenses
20 incurred in the performance of their duties pursuant to this section.
21 4. Any vacancies in the membership of the task force shall be filled
22 in the manner provided for in the initial appointment.

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

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1 5. The task force may consult with any organization, other government
2 entity or agency, or person, in the development of its report required
3 by subdivision six of this section.

4 6. On or before April 15, 2018, the task force shall submit to the
5 governor, the temporary president of the senate and the speaker of the
6 assembly a report containing the following:

7 (a) an analysis of data received by the department of financial
8 services on the prevalence of these institutions in the state, specif-
9 ically, how many online lenders are lending to consumers and small busi-
10 nesses in this state;

11 (b) an analysis of data received by the attorney general and division
12 of consumer affairs regarding the number of complaints, actions and
13 investigations related to online lending institutions;

14 (c) an examination of the online lending industry and the key partic-
15 ipants therein, and an investigation and understanding of the differ-
16 ences in small business and consumer borrowers, lenders and markets,
17 such as the history, business models and practices of online lending
18 institutions including identification of interest rates charged by
19 online lenders;

20 (d) an examination of how consumers are utilizing online consumer
21 credit to manage existing debt, potentially reduce borrowing costs or
22 access needed funds;

23 (e) an examination of the existing small business credit gap and small
24 business' use of credit and credit needs;

25 (f) identification of alternatives for consumers and small businesses
26 who are unable to access traditional financing and whether new technolo-
27 gies can enhance access to credit;

28 (g) an examination of whether existing federal and state laws already
29 provide appropriate police powers and regulation of small business and
30 consumer lending by online lending institutions;

31 (h) an evaluation of the impact of any contemplated or proposed law or
32 regulation on the small business credit gap, including a quantitative
33 analysis of the amount of increased or decreased credit available to
34 small businesses as a result of such law or regulation, including the
35 extent to which access to credit would be affected under the state's
36 current usury laws;

37 (i) an analysis of the potential interaction of federal law with any
38 contemplated or proposed state regulation;

39 (j) an exploration of options for multistate collaboration to harmon-
40 ize the laws and regulations of various states related to small business
41 and consumer lending across state borders;

42 (k) an assessment of best practices for small business and consumer
43 loan disclosures, including current online lending industry efforts to
44 advanced standardized and clear information for borrowers;

45 (l) an assessment of whether consumer loans and small business loans
46 are treated differently by online lending institutions and if any level
47 of oversight should take such differences into consideration;

48 (m) an identification of what consumer protections exist to protect
49 consumers in this state from predatory practices of online lending
50 institutions; and

51 (n) a determination of what new measures, if any, are needed to ensure
52 consumers are protected from deceptive or predatory lending without
53 unduly restricting access to credit.

54 All information and data required to be reported pursuant to this
55 subdivision shall be provided in the aggregate statewide, and shall not

1 provide any information or data relating to a specific borrower or
2 borrowers, or lender or lenders.]

3 1. THE DEPARTMENT OF FINANCIAL SERVICES IS HEREBY AUTHORIZED AND
4 DIRECTED TO STUDY AND ISSUE A PUBLIC REPORT WITH RECOMMENDATIONS,
5 CONCERNING THE PRACTICES, ECONOMIC IMPACT, AND OPERATIONS OF ONLINE
6 LENDING IN NEW YORK STATE. THIS REPORT SHALL BE PREPARED IN CONSULTATION
7 WITH STAKEHOLDERS, INCLUDING ONLINE LENDERS, CONSUMERS AND SMALL BUSI-
8 NESSES.

9 2. ON OR BEFORE JULY 1, 2018, THE SUPERINTENDENT OF FINANCIAL SERVICES
10 SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE
11 SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE STANDING COMMITTEE ON
12 BANKS, AND THE CHAIR OF THE ASSEMBLY STANDING COMMITTEE ON BANKS, A
13 WRITTEN REPORT DETAILING THE FINDINGS AND RECOMMENDATIONS ON THE DEPART-
14 MENT'S STUDY PERFORMED IN ACCORDANCE WITH SUBDIVISION ONE OF THIS
15 SECTION. SUCH REPORT SHALL NOT INCLUDE PERSONAL IDENTIFYING INFORMATION
16 OF ANY BORROWER. THE SUPERINTENDENT SHALL USE REASONABLE EFFORTS TO
17 IDENTIFY THE ONLINE LENDERS CURRENTLY OPERATING IN NEW YORK STATE AND
18 SHALL INCLUDE THE FOLLOWING INFORMATION IN THE REPORT:

19 (I) AN ANALYSIS OF THE ONLINE LENDERS PRESENTLY OPERATING IN THE STATE
20 INCLUDING THE COMMON MEANS AND METHODS OF THEIR OPERATIONS, AND BUSI-
21 NESS; LENDING PRACTICES OF THE ONLINE LENDING INDUSTRY, AND PREVALENCE
22 OF SUCH PRACTICES, INCLUDING DISCLOSURE PRACTICES AND INTEREST RATES AND
23 COSTS CHARGED BY ONLINE LENDERS TO INDIVIDUALS AND BUSINESSES IN THE
24 STATE; THE PRIMARY DIFFERENCES BETWEEN ONLINE LENDING PRODUCTS AND
25 SERVICES AND THOSE MADE BY TRADITIONAL LENDING INSTITUTIONS DOING BUSI-
26 NESS IN THE STATE; THE RISKS AND BENEFITS OF THE PRODUCTS OFFERED; AND
27 THE OTHER FORMS OF CREDIT THAT WOULD BE AVAILABLE TO SUCH BORROWERS IN
28 THE ABSENCE OF ONLINE LENDING OPPORTUNITIES;

29 (II) THE TYPES AND AVAILABILITY OF CREDIT PRODUCTS FOR INDIVIDUALS AND
30 BUSINESSES;

31 (III) AN ANALYSIS OF DATA, IF AVAILABLE AND ACCESSIBLE, REGARDING THE
32 TYPE AND NUMBER OF COMPLAINTS, ACTIONS AND INVESTIGATIONS RELATED TO
33 ONLINE LENDERS; AND

34 (IV) A SURVEY OF THE EXISTING STATE AND FEDERAL LAWS AND REGULATIONS
35 THAT APPLY TO THE ONLINE LENDING INDUSTRY, AND THE IMPACT OF SUCH LAWS
36 AND REGULATIONS ON CONSUMERS, AND THE ACCESS TO CREDIT ON ONLINE LEND-
37 ERS, INCLUDING BUT NOT LIMITED TO THE AVAILABILITY AND COST OF SUCH
38 CREDIT OPPORTUNITIES TO START UP OR EMERGING BUSINESSES.

39 S 2. Section 3 of a chapter of the laws of 2017, relating to estab-
40 lishing the task force on online lending institutions, and providing for
41 its powers and duties, as proposed in legislative bills numbers S.
42 6593-A and A. 8260-A, is amended to read as follows:

43 S 3. This act shall take effect immediately, and shall expire and be
44 deemed repealed [April 15,] JULY 1, 2018.

45 S 3. This act shall take effect immediately; provided, however that
46 section one of this act shall take effect on the same date and in the
47 same manner as a chapter of the laws of 2017, relating to establishing
48 the task force on online lending institutions, and providing for its
49 powers and duties, as proposed in legislative bills numbers S. 6593-A
50 and A. 8260-A, takes effect.