

BILL ANALYSIS

C.S.H.B. 3198
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Government Efficiency & Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the Texas Higher Education Coordinating Board does not have sufficient authority to enforce laws relating to student loan defaults, and they point out that, in order for the coordinating board to sue for the remainder of the loan amount, the attorney general must institute the suit and that venue for such a suit may be the county of residence of the person being sued, the county in which the institution in which the loan recipient was last enrolled is located, or Travis County. The parties contend that venue and jurisdiction of such a suit should be exclusively conferred on a court of competent jurisdiction in Travis County and that the attorney general should be authorized, but not required, to bring the suit. C.S.H.B. 3198 seeks to provide a more effective means of addressing student loan defaults.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3198 amends the Education Code to make provisions relating to a default on a student loan and a subsequent suit for the remainder of the loan applicable to a person who has cosigned as a guarantor for the student loan; authorizes, rather than requires, the suit for the remaining sum to be instituted by the attorney general; and establishes that the venue for and jurisdiction of such a suit is exclusively conferred upon a court of competent jurisdiction in Travis County. The bill removes provisions providing for the institution of a suit by any county or district attorney acting for the attorney general, establishing as an alternate venue the county of the person's residence or the county in which the institution at which the student was last enrolled is located, and providing for a delay of such suit on the attorney general's finding of reasonable justification.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3198 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 52.39, Education Code, is amended to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 52.39, Education Code, is amended to read as follows:

83R 27245

13.123.1086

Substitute Document Number: 83R 18953

Sec. 52.39. DEFAULT; SUIT. (a) When any person who has received a loan authorized by this chapter has failed or refused to make as many as six monthly payments due in accordance with an executed note, then the full amount of the remaining principal and interest becomes due and payable immediately, and the amount due, the person's name and his last known address, and other necessary information shall be reported by the board to the attorney general.

(b) Unless the attorney general advises the board in writing that there is reasonable justification for delaying suit, a suit to collect the amount due ~~[Suit for the remaining sum]~~ shall be instituted by the attorney general~~;~~ or any county or district attorney acting for the attorney general.

Venue for the suit is ~~[him,]~~ in:

(1) the county of ~~[the person's]~~ residence of the person who received the loan;

(2) ~~;~~ the county in which ~~[is located]~~ the institution at which the person was last enrolled is located; ~~;~~ or

(3) ~~[in]~~ Travis County~~;~~ unless the attorney general finds reasonable justification for delaying suit and so advises the board in writing].

SECTION 2. Subchapter C, Chapter 52, Education Code, is amended by adding Section 52.42 to read as follows:

Sec. 52.42. LOAN DEFAULT GROUND FOR NONRENEWAL OF PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

(1) "License" means a certificate or similar form of permission issued or renewed by a licensing agency and required by law to engage in a profession or occupation.

(2) "Licensee" means a person to whom a licensing agency issues a license.

(3) "Licensing agency" means a board, commission, department, or other agency in the executive branch of state government that issues or renews a license. The term does not include the State Securities Board.

(b) The Texas Higher Education Coordinating Board shall identify the licensing agencies subject to this section and provide written

Sec. 52.39. DEFAULT; SUIT. When any person who has received ~~or cosigned as a guarantor for~~ a loan authorized by this chapter has failed or refused to make as many as six monthly payments due in accordance with an executed note, then the full amount of the remaining principal and interest becomes due and payable immediately, and the amount due, the person's name and ~~[his]~~ last known address, and other necessary information shall be reported by the board to the attorney general.

Suit for the remaining sum ~~may~~ ~~[shall]~~ be instituted by the attorney general.

Venue for and jurisdiction of a suit arising under this section is exclusively conferred upon a court of competent jurisdiction in Travis County ~~;~~ or any county or district attorney acting for him, in the county of the person's residence, the county in which is located the institution at which the person was last enrolled, or in Travis County, unless the attorney general finds reasonable justification for delaying suit and so advises the board in writing].

No equivalent provision.

notice to those agencies of the requirements prescribed by this section. Only those licensing agencies that the board identifies and that receive such notice are required to carry out this section.

(c) Annually, each licensing agency shall prepare a list of the agency's licensees and submit the list to the board in hard copy or electronic form. Using the submitted lists, the board periodically shall:

(1) identify the licensees on the list who are in default on loans administered by the board; and

(2) provide a list of those licensees to the appropriate licensing agencies in hard copy or electronic form.

(d) A person who is in default on a loan administered by the board may enter into an agreement with the board for repayment of the defaulted loan. The board shall provide the person with a certificate certifying that the person has entered a repayment agreement on the defaulted loan.

(e) A licensing agency may not renew the license of a licensee on the list provided by the board under Subsection (c)(2) unless the licensee presents to the agency a certificate issued by the board certifying that:

(1) the licensee has entered into a repayment agreement with the board on the defaulted loan; or

(2) the licensee is not in default on a loan administered by the board.

(f) A licensing agency may not renew the license of a licensee who defaults on a repayment agreement unless the licensee presents to the agency a certificate issued by the board certifying that:

(1) the licensee has entered into another repayment agreement with the board on the defaulted loan; or

(2) the licensee is not in default on a loan administered by the board or on a repayment agreement.

(g) A licensing agency shall provide written notice of the nonrenewal policies established by Subsections (e) and (f) to each applicant for a license or for renewal of a license. The board shall provide written notice of those policies on each loan application form provided by the board and on each promissory note signed by a borrower. Failure to provide the notice required by this subsection does not affect the default status of a borrower or the prohibitions on renewal of a license held by a

person in default.

(h) A licensing agency shall provide an opportunity for a hearing to a licensee before the agency takes action concerning the nonrenewal of a license under this section.

(i) Each licensing agency shall adopt any rules necessary to carry out the licensing agency's duties under this section.

(j) The board by rule shall establish procedures to carry out the board's duties under this section.

SECTION 3. Section 82.022, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The supreme court may adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a loan administered by the Texas Higher Education Coordinating Board under Chapter 52, Education Code.

SECTION 4. The Texas Higher Education Coordinating Board shall adopt rules for the administration of Section 52.42, Education Code, as added by this Act, as soon as practicable after this Act takes effect. For that purpose, the coordinating board may adopt the initial rules in the manner provided by law for emergency rules.

SECTION 5. In consultation with the Texas Higher Education Coordinating Board, each licensing agency subject to Section 52.42, Education Code, as added by this Act, shall adopt any rules necessary to carry out the licensing agency's duties under that section as soon as practicable following the effective date of this Act.

No equivalent provision.

SECTION 6. This Act takes effect September 1, 2013.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. The changes in law made by this Act to Section 52.39, Education Code, apply only to a suit filed under that section on or after the effective date of this Act. A suit filed under Section 52.39, Education Code, before the effective date of this Act is governed by the law in effect on the date the suit is filed, and the former law is continued in effect for that purpose.

SECTION 3. Same as introduced version.