

HOUSE No. 1658

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty and James B. Eldridge for legislation to establish a program to provide assistance with the repayment of educational loans for law school graduates. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO LOAN FORGIVENESS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 221 of the General Laws, as appearing in the 2004 Offi-
2 cial Edition, is hereby amended by adding after Section 51 the
3 following new section:—

4 Section 51A. Loan Forgiveness for Public Service Attorneys.

5 Section 1. Purpose.

6 To establish a program to provide assistance with the repayment
7 of educational loans associated with obtaining a law degree to law
8 school graduates who are employed full-time in public service and
9 who have income below specified levels. This program is designed
10 to assist in recruiting and retaining diverse and highly skilled attor-
11 neys with a demonstrated commitment to serving the needs of the
12 public in the Commonwealth. This statute is to be liberally construed
13 in aid of its purpose of granting loan repayment for public service
14 attorneys.

15 Section 2. Definitions.

16 “Adjusted Net Income” or “ANI”. The difference between an
17 applicant’s annual gross income and the applicant’s annual payments
18 on the applicant’s qualified educational debt.

19 “Annual Gross Income” or “AGI”. The applicant’s gross income,
20 or one-half the sum of the applicant’s gross income and the gross
21 income of the applicant’s spouse or partner, reduced by \$5,000 per
22 dependent, but by no more than \$9,000 total.

23 “Applicant”. Any person seeking loan assistance relief under this
24 subchapter.

25 “Cost of Living Adjustment”. For any calendar year, the per-
26 centage, if any, by which the CPI for the preceding calendar year
27 exceeds the CPI for calendar year.

28 “CPI”. The Consumer Price Index for any calendar year as
29 defined in Section 1 of Title 26 of the United States Code, the
30 Internal Revenue Code.

31 “Eligible Applicant”. Any applicant who meets the eligibility
32 requirements set forth in section IV of this subchapter.

33 “Eligible Employment”. Employment on a full-time basis (at least
34 thirty-five [35] hours a week) for one of the following:— (1) The
35 Massachusetts Office of the Attorney General; (2) any District
36 Attorney’s Office in the Commonwealth; (3) the Committee for
37 Public Counsel Services; (4) any 501(c)(3) or 501(c)(3)-(5) organi-
38 zation receiving funding from the Massachusetts Legal Assistance
39 Corporation or a Massachusetts Legal Services Corporation, or (5)
40 any “qualified civil legal services program,” as defined in Section 1
41 of Chapter 221A.

42 “Eligible Income”. In the base year (2006), an Adjusted Net
43 Income of \$40,000 or less. In any subsequent year, this ANI ceiling
44 shall be increased by an amount equal to \$40,000 multiplied by the
45 cost of living adjustment for said subsequent year. If any such
46 increase is not a multiple of \$100, such increase shall be rounded to
47 the next highest multiple of \$100.

48 “Eligible Loan”. Any loan for undergraduate or law school that is
49 obtained for the applicant’s tuition or educational expenses from a
50 college or university, government, or commercial source, and on
51 which payments are current and not in default. The program only
52 covers federal and private loans obtained for undergraduate or law
53 school educational expenses which have been secured by the appli-
54 cant and authorized by the financial aid office of the educational
55 institutions he or she attended. Loans obtained through family or
56 friends are not covered.

57 “Participant”. An eligible applicant who is awarded loan relief
58 assistance under this subchapter/section/statute.

59 “Program”. The loan relief assistance program, as set forth under
60 this subchapter.

61 “Program Award”. Money awarded to program participants to
62 assist with the repayment of program eligible educational loans.

63 “Qualified Educational Debt”. The annualized monthly amount an
64 applicant pays for program eligible loans based on a ten (10) year
65 amortization or, if the applicant has consolidated the original loans,
66 on a fifteen (15) year amortization and the federal loan program
67 interest rate at the time of an applicant’s first application.

68 “Retirement Plan”. Any IRS qualified retirement plan including
69 but not limited to a defined contribution plan, defined benefit plan,
70 or other retirement plan that meets the requirements of the Internal
71 Revenue Code (IRC) and the Employee Retirement Income Security
72 Act of 1974 (ERISA), as well as 457b plans.

73 “Unmet Income”. The difference between \$40,000 and the eli-
74 gible applicant’s Adjusted Net Income, less any assistance the appli-
75 cant receives through a law school’s own loan assistance relief
76 program.

77 Section 3. Program Administration.

78 The program shall be administered by a non-profit organization,
79 as defined by Section 501(c)(3) of Title 26 of the United States
80 Code, selected by the legislature (Administrator).

81 Section 4. Eligibility.

82 (a) Qualification. In order to qualify for loan relief assistance
83 under this subchapter, an applicant must submit an application to the
84 Administrator documenting that the applicant:

- 85 1.) has received a Juris Doctorate degree from a law school; and
- 86 2.) is a member in good standing of the Massachusetts Bar or is
87 eligible to sit for the next Massachusetts Bar Examination or has
88 taken the most recent Massachusetts Bar Examination and is
89 awaiting results; and
- 90 3.) has eligible employment as defined in Section 2 of this chapter
91 ; and
- 92 4.) has eligible income as defined in Section 2 of this chapter ;
93 and
- 94 5.) has an eligible loan as defined in Section 2 of this chapter ;
95 and
- 96 6.) is currently not a recipient of a post-graduate educational fel-
97 lowship which includes loan repayment relief assistance; and
- 98 7.) that the applicant’s liquid assets do not exceed \$15,000 (or
99 \$30,000 when combined with equity of spouse or partner), not

100 including equity in the applicant's IRS qualified retirement plan(s),
101 as defined in Section 2 of this chapter, or principal place of resi-
102 dence.

103 (b) Renewal of Eligibility.

104 Applicants must apply annually for program awards. In order to
105 remain eligible for program loan forgiveness benefits, participants
106 must remain in program eligible employment pursuant Section 2 of
107 this chapter.

108 (c) Change of Status During Program Year. Applicants must
109 notify Administrator in writing within ninety (90) days of any
110 change in his/her eligibility based on the criterion of subsection A of
111 this section during the program year. Failure to do so may result in
112 termination of loan repayment assistance, loan forgiveness benefits,
113 and/or an accelerated repayment schedule.

114 Section 5. Awards.

115 All awards will be issued in the form of interest free loans forgiv-
116 able over a specific period of time.

117 (a) Loan Forgiveness.

118 1.) If a participant remains in program eligible employment as
119 defined in Section 2 of this chapter for at least two consecutive
120 years, then fifty percent of any awards issued under this subchapter
121 during those two years shall be forgiven at the end of the two years.

122 2.) If a participant remains in program eligible employment as
123 defined in Section 2 of this chapter for at least three consecutive
124 years, then one hundred percent of any awards issued under this sub-
125 chapter during those three years shall be forgiven at the end of the
126 three years.

127 3.) If a participant remains in program eligible employment as
128 defined in Section 2 of this chapter for four consecutive years or
129 more, all loan awards shall be forgivable in full after completion of
130 each additional year of eligibility.

131 (b) Loan Repayment.

132 1.) If a participant completes less than two consecutive years of
133 program eligible employment as defined in Section 2 of this chapter,
134 the participant will be obligated to repay all awards issued to the par-
135 ticipant under this subchapter over a ten year period in four quarterly
136 installments per year, with interest of five percent per annum.

137 2.) A participant who is subject to a medical or family leave of
138 absence from program eligible employment as defined in Section 2

139 of this chapter shall continue to receive loan repayment assistance
140 under the program for up to six months. If the leave of absence
141 exceeds six months, the Administrator shall terminate such partici-
142 pant's eligibility and require (a) repayment of all or part of the loan
143 repayment assistance provided to such participant during such leave
144 of absence, as determined by the Administrator on a case-by-case
145 basis, and (b) repayment in accordance with subsection (B)(1) of this
146 section.

147 3.) A participant who loses a job through no fault of the partici-
148 pant shall continue to receive loan repayment assistance under this
149 program for up to the later of six months or the date of reemploy-
150 ment and for up to one year if the participant remains unemployed.
151 A participant who has lost a job due to a lay-off, reduction in force,
152 illness and/or disability of the participant or the illness and/or dis-
153 ability of the participant's spouse, family member or member of the
154 participant's immediate household, or for any other reason consti-
155 tuting grounds for leave or good cause for leave under the federal
156 Family and Medical Leave Act, the Massachusetts Maternity Leave
157 Act, the Massachusetts Small Necessities Act, the Massachusetts
158 Employment and Training Law, the Massachusetts Fair Employment
159 Law or any other state or federal law protecting the rights of workers
160 shall be determined to have lost the job through no fault. All pre-
161 sumptions regarding fault on the part of the participant shall be made
162 in favor of the participant.

163 (c) Award Determinations.

164 The Administrator shall, in making award determinations, give
165 priority to those eligible applicants with the highest unmet income
166 and the lowest assets as defined in Section 4 of this chapter. Awards
167 are subject to availability of program funds.

168 (d) Award Amounts.

169 1.) Eligible applicants with unmet incomes of \$10,000 or more
170 will be eligible to receive a \$5,000 annual award;

171 2.) Eligible applicants with unmet incomes of between \$7,000 and
172 \$9,999 will be eligible to receive a \$4,000 annual award;

173 3.) Eligible applicants with unmet incomes of \$6,999 or less will
174 be eligible to receive a \$2,000 annual award.

175 4.) In no event, shall the annual award to a qualified applicant
176 exceed the applicant's annual payments on the applicant's program
177 qualifying debt.

178 5.) No participant shall be awarded a total of more than \$100,000
179 total from this program.