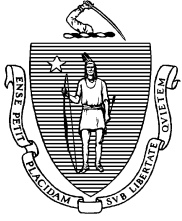


SENATE NO. 838



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 SECTION 1. Chapter 221 of the General Laws, as appearing in the 2002 Official Edition, is hereby
2 amended by adding after section 51 the following new section:—

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

4 Section 1. Purpose.

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

11 Section 2. Definitions.

12 “Adjusted Net Income” (ANI). The difference between an applicant's annual gross income and the
13 applicant's annual payments on the applicant’s qualified educational debt.

14 “Annual Gross Income”. The applicant's gross income, or one-half the sum of the applicant's gross
15 income and the gross income of the applicant's spouse or partner, reduced by \$5,000 per dependent,
16 but by no more than \$9,000 total.

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

18 “Cost of Living Adjustment”. For any calendar year, the percentage, if any, by which the CPI for the
19 preceding calendar year exceeds the CPI for calendar year.

20 “CPI”. The Consumer Price Index for any calendar year as defined in section 1 of the Internal
21 Revenue Code, 26, U.S.C. 1

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

24 “Eligible Employment”. Employment on a full-time basis (at least thirty-five [35] hours a week) for
25 one of the following: (1)The Massachusetts Office of the Attorney General; (2) any District Attorney's
26 Office in the Commonwealth; (3) the Committee for Public Counsel Services; (4) any 501(c)(3) or
27 501(c)(3)-(5) organization receiving MLAC or LSC funding, or (5) any qualified civil legal services
28 program in Massachusetts that represents the poor (M.G.L Section 1, 221A).

29 “Eligible Income”. In the base year (2005), an Adjusted Net Income of \$40,000 or less. In any
30 subsequent year, this ANI ceiling shall be increased by an amount equal to \$40,000 multiplied by the
31 cost of living adjustment for said subsequent year. If any such increase is not a multiple of \$100, such
32 increase shall be rounded to the next highest multiple of \$100.

33 “Eligible Loan”. Any loan for undergraduate or law school that is obtained for the applicant's tuition
34 or educational expenses from a college or university, government, or commercial source, and on which

35 payments are current and not in default. The program only covers federal and private loans obtained
36 for undergraduate or law school educational expenses which have been secured by the applicant and
37 authorized by the financial aid office of the educational institutions he or she attended. Loans obtained
38 through family or friends are not covered.

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

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

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

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

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

52 “Unmet Income”. The difference between \$40,000 and the eligible applicant's Adjusted Net Income,
53 less any assistance the applicant receives through a law school's own loan assistance relief program

54 Section 3. Program Administration.

55 The program shall be administered by a 501 c 3 non-profit selected by the legislature (Administrator).

56 Section 4. Eligibility.

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

- 59 1. has received a J.D. degree from a law school; and
- 60 2. is a member in good standing of the Massachusetts Bar or is eligible to sit for the
61 next Massachusetts Bar Examination or has taken the most recent Massachusetts Bar
62 Examination and is awaiting results; and
- 63 3. has eligible employment pursuant to §IIE; and
- 64 4. has eligible income pursuant to §IIF; and
- 65 5. has an eligible loan or loans pursuant to §IIG; and
- 66 6. is currently not a recipient of a post-graduate educational fellowship which includes
67 loan repayment relief assistance; and
- 68 7. that the applicant's liquid assets do not exceed \$15,000 (or \$30,000 when combined
69 with equity of spouse or partner), not including equity in the applicant's IRS qualified
70 retirement plan(s), pursuant to §IIL, or principal place of residence.

71 (b) Renewal of Eligibility.

72 Applicants must apply annually for program awards. In order to remain eligible for program
73 loan forgiveness benefits, participants must remain in program eligible employment pursuant
74 to §IIE.

75 (c) Change of Status During Program Year.

76 Applicants must notify Administrator in writing within ninety (90) days of any change in
77 his/her eligibility based on the criterion of subsection A of this section during the program
78 year. Failure to do so may result in termination of loan repayment assistance, loan forgiveness
79 benefits, and/or an accelerated repayment schedule.

80 Section 5. Awards.

81 All awards will be issued in the form of interest free loans forgivable over a specific period of time.

82 (a) Loan Forgiveness.

83 1. If a participant remains in program eligible employment pursuant to §IIE for at least
84 two (2) consecutive years, then fifty percent (50%) of any awards issued under this
85 subchapter during those two (2) years shall be forgiven at the end of the two (2) years.

86 2. If a participant remains in program eligible employment pursuant to §IIE for at least
87 three (3) consecutive years, then one hundred percent (100%) of any awards issued
88 under this subchapter during those three years shall be forgiven at the end of the three
89 years.

90 3. If a participant remains in program eligible employment pursuant to §IIE for four (4)
91 consecutive years or more, all loan awards shall be forgivable in full after completion
92 of each additional year of eligibility.

93 (b) Loan Repayment.

94 1. If a participant completes less than two (2) consecutive years of program eligible
95 employment pursuant to §IIE, the participant will be obligated to repay all awards
96 issued to the participant under this subchapter over a ten (10) year period in four
97 (4)quarterly installments per year, with interest of five percent (5%) per annum.

98 2. A participant who is subject to a medical or family leave of absence from program
99 eligible employment pursuant to §IIE shall continue to receive loan repayment
100 assistance under the program for up to six (6) months. If the leave of absence exceeds
101 six (6) months, the Administrator shall terminate such participant's eligibility and
102 require (a) repayment of all or part of the loan repayment assistance provided to such

103 participant during such leave of absence, as determined by the Administrator on a case-
104 by-case basis, and (b) repayment in accordance with subsection (B)(1) of this section.

105 3. A participant who loses a job through no fault of the participant shall continue to
106 receive loan repayment assistance under this program for up to the later of 6 months or
107 the date of reemployment and for up to one year if the participant remains unemployed.

108 A participant who has lost a job due to a lay-off, reduction in force, illness and/or
109 disability of the participant or the illness and/or disability of the participant's spouse,
110 family member or member of the participant's immediate household, or for any other
111 reason constituting grounds for leave or good cause for leave under the federal Family
112 and Medical Leave Act, the Massachusetts Maternity Leave Act, the Massachusetts
113 Small Necessities Act, the Massachusetts Employment and Training Law, the
114 Massachusetts Fair Employment Law or any other state or federal law protecting the
115 rights of workers shall be determined to have lost the job through no fault. All
116 presumptions regarding fault on the part of the participant shall be made in favor of the
117 participant.

118 (c) Award Determinations.

119 The Administrator shall, in making award determinations, give priority to those eligible
120 applicants with the highest unmet income and the lowest assets as defined in §IV(7) of this
121 Chapter. Awards are subject to availability of program funds.

122 (d) Award Amounts.

123 1. Eligible applicants with unmet incomes of \$10,000 or more will be eligible to receive
124 a \$6,000 annual award;

- 125 2. Eligible applicants with unmet incomes of between \$7,000 and \$9,999 will be
126 eligible to receive a \$4,000 annual award;
- 127 3. Eligible applicants with unmet incomes of \$6,999 or less will be eligible to receive a
128 \$2,000 annual award.
- 129 4. In no event, shall the annual award to a qualified applicant exceed the applicant's
130 annual payments on the applicant's program qualifying debt.
- 131 5. No participant shall be awarded a total of more than \$30,000 total from this program.

132 Section 6. Severability.

133 If any provisions of this Chapter or application thereof to any person or circumstance is held invalid,
134 the invalidity does not affect other provisions or applications of the Chapter which can be given effect
135 without the invalid provisions or application, and to this end the provisions of this Chapter are
136 severable.