

SENATE BILL 63

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3lr0070

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Higher Education Commission)**

Requested: October 16, 2012

Introduced and read first time: January 9, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Higher Education Commission – Institutional Renewal Fees and**
3 **Religious Educational Institutions**

4 FOR the purpose of clarifying that the Maryland Higher Education Commission is
5 authorized to impose certain renewal fees on certain institutions of
6 postsecondary education; altering certain conditions under which the
7 Commission may authorize certain religious educational institutions to operate
8 without a certificate of approval; requiring certain religious educational
9 institutions to obtain a certificate of approval under certain circumstances;
10 clarifying certain procedures and establishing certain additional requirements
11 related to certain religious educational institutions; and generally relating to
12 renewal fees for all institutions of postsecondary education and exempt and
13 nonexempt religious educational institutions.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 11–105(o) and 11–202.1
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2012 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Education**

22 11–105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (o) (1) The Commission may require an application **OR RENEWAL** fee
2 from an institution of postsecondary education seeking:

3 (i) Certification to operate in the State; [or]

4 **(II) AN EXEMPTION FROM CERTIFICATION TO OPERATE IN**
5 **THE STATE UNDER § 11–202.1(B) OF THIS TITLE; OR**

6 **[(ii)] (III)** Except for actions relating to programs offered at a
7 regional higher education center, approval of any academic program action taken
8 under Subtitle 2 of this title.

9 (2) (i) The revenues from application fees shall be distributed to a
10 special, nonlapsing fund that is not subject to § 7–302 of the State Finance and
11 Procurement Article.

12 (ii) Subject to subparagraph (iii) of this paragraph, the special
13 fund may be used only to carry out the provisions of Subtitle 2 of this title.

14 (iii) At the end of each fiscal year, any amount in excess of
15 \$100,000 shall revert to the General Fund.

16 (iv) Any investment earnings of the fund shall be credited to the
17 General Fund.

18 (3) Subject to the provisions of § 11–203 of this title, the Commission
19 may require bonds or other financial guaranties from institutions of postsecondary
20 education seeking certification or recertification to operate in the State.

21 11–202.1.

22 (a) A private nonprofit institution of higher education operating under a
23 charter granted by the General Assembly may operate without a certificate of approval
24 from the Commission.

25 (b) **(1)** Subject to the requirements imposed by [subsection (c) of] this
26 section, **AND EXCEPT AS PROHIBITED IN PARAGRAPH (2) OF THIS SUBSECTION,**
27 **[the following institutions of postsecondary education] A RELIGIOUS EDUCATIONAL**
28 **INSTITUTION** may operate without a certificate of approval from the Commission **IF**
29 **THE INSTITUTION:**

30 **[(1)** A religious educational institution that certifies, in accordance
31 with procedures established by the Commission, that the institution:]

32 (i) Is [founded and operated by a church or other religious
33 institution or organization of churches or religious institutions as an integral part of

1 the religious ministry of that institution or organization] **ESTABLISHED FOR**
2 **RELIGIOUS EDUCATIONAL PURPOSES;**

3 **(II) PROVIDES EDUCATIONAL PROGRAMS ONLY FOR**
4 **RELIGIOUS VOCATIONS OR PURPOSES;**

5 **[(ii) (III) Offers ONLY sectarian instruction [only] designed for**
6 **and aimed at [persons] INDIVIDUALS who hold or seek to learn THE particular**
7 **religious faiths or beliefs [of religious institutions or religious organizations, and**
8 **provides only educational programs for religious vocations; and] TAUGHT BY THE**
9 **INSTITUTION;**

10 **(IV) DOES NOT OFFER INSTRUCTION IN NONSECTARIAN OR**
11 **GENERAL EDUCATION; AND**

12 **[(iii) (V) States on the certificate or diploma the religious**
13 **nature of the award]; and**

14 (2) A church or other religious institution offering a postsecondary
15 instructional program leading to a certificate or diploma only if designed for and
16 aimed at persons who hold or seek to learn the particular religious faith or beliefs of
17 that church or religious institution, and providing only educational programs for
18 religious purposes].

19 **(2) A RELIGIOUS EDUCATIONAL INSTITUTION THAT IS**
20 **ACCREDITED BY AN ACCREDITING BODY RECOGNIZED BY THE UNITED STATES**
21 **DEPARTMENT OF EDUCATION MAY NOT OPERATE WITHOUT A CERTIFICATE OF**
22 **APPROVAL FROM THE COMMISSION.**

23 (c) **[(1)] Each RELIGIOUS EDUCATIONAL institution authorized to operate**
24 **without a certificate of approval under subsection (b) of this section:**

25 **[(i) (1) Shall submit to the Commission, every 2 years, A**
26 **RENEWAL APPLICATION THAT INCLUDES a financial statement reviewed by an**
27 **independent accountant retained by the institution AND A COPY OF THE CURRENT**
28 **CATALOG OF COURSES; and**

29 **[(ii) (2) May not commence or continue to operate, do**
30 **business, or function unless the Commission determines on the basis of the financial**
31 **statement submitted by the institution that the institution possesses adequate**
32 **financial resources to support the institution's educational program.**

33 **[(2) (D) The Commission shall adopt regulations establishing**
34 **procedures and standards for the submission and evaluation of the APPLICATION**

1 **FOR EXEMPTION, RENEWAL APPLICATION, AND** reports and financial statements
2 submitted by **RELIGIOUS EDUCATIONAL** institutions [under this subsection].

3 **[(d)](E)** [Any] **A RELIGIOUS EDUCATIONAL** institution **SEEKING TO**
4 **OPERATE WITHOUT A CERTIFICATE OF APPROVAL** under subsection (b) of this
5 section that is denied the right to operate has the right to judicial review as provided
6 by the Administrative Procedure Act.

7 **[(e)] (F)** Nothing in this section precludes [an] **A RELIGIOUS**
8 **EDUCATIONAL** institution [operating] **AUTHORIZED TO OPERATE** without a
9 certificate of approval under subsection (b) of this section from seeking a certificate of
10 approval from the Commission.

11 **(G) A RELIGIOUS EDUCATIONAL INSTITUTION AUTHORIZED TO**
12 **OPERATE WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF**
13 **THIS SECTION SHALL DISCLOSE ON ALL TRANSCRIPTS, CATALOGS,**
14 **ADVERTISEMENTS, AND PUBLICATIONS OF THE INSTITUTION THAT THE**
15 **INSTITUTION DOES NOT HAVE A CERTIFICATE OF APPROVAL FROM THE**
16 **COMMISSION.**

17 **[(f)] (H)** With regard to [an] **A RELIGIOUS EDUCATIONAL** institution
18 [operating] **AUTHORIZED TO OPERATE** without a certificate of approval under
19 subsection (b) of this section, a person may not:

20 (1) Make a statement, whether verbal or written, that the institution
21 is approved by, or has a certificate of approval from, the Commission, including a
22 statement on any certificate, diploma, academic transcript, or other document issued
23 by the institution or in any advertisement or publication, or on a website; or

24 (2) Enroll a student in the institution unless, before enrollment, the
25 person gives written notice to and obtains a written acknowledgment from the student
26 that:

27 (i) The institution's instructional program is only designed for
28 and aimed at persons who hold or seek to learn the particular religious faith or beliefs
29 of the church or religious institution, and provides only educational programs for
30 religious vocations or purposes;

31 (ii) An institution of higher education is not required to accept
32 for transfer credits earned at the institution;

33 (iii) An institution of higher education is not required to
34 recognize an award earned at the institution; [and]

35 (iv) A potential employer may determine that an award earned
36 at the institution does not meet minimum educational requirements for employment;

1 **(V) WITH RESPECT TO A RELIGIOUS COUNSELOR PROGRAM,**
2 **STATE LICENSING BOARDS ARE NOT REQUIRED TO RECOGNIZE THE PROGRAM**
3 **AS A PREREQUISITE OF LICENSURE; AND**

4 **(VI) IF APPLICABLE, THE INSTITUTION:**

5 **1. IS NOT ACCREDITED; OR**

6 **2. IS ACCREDITED BY AN ACCREDITING BODY THAT**
7 **IS NOT RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION.**

8 **[(g)] (I)** The written acknowledgment obtained from a student under
9 subsection **[(f)] (H)** of this section shall be:

10 (1) In a form approved by the Commission;

11 (2) Signed by both the student and a representative of the institution;

12 and

13 (3) Permanently retained in the student's file by the institution.

14 **[(h)] (J)** A person who violates subsection **[(f) or] (g), (H), OR (I)** of this
15 section is liable for a penalty of up to \$5,000 for each violation.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2013.