

Chapter 14

(Senate Bill 63)

AN ACT concerning

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

FOR the purpose of clarifying that the Maryland Higher Education Commission is authorized to impose certain renewal fees on certain institutions of postsecondary education; requiring the revenues from certain fees to be distributed to a certain fund; altering certain conditions under which the Commission may authorize certain religious educational institutions to operate without a certificate of approval; requiring certain religious educational institutions to obtain a certificate of approval under certain circumstances; clarifying certain procedures and establishing certain additional requirements related to certain religious educational institutions; and generally relating to renewal fees for all institutions of postsecondary education and exempt and nonexempt religious educational institutions.

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

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

Article – Education

11–105.

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

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

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

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

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

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

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

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

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

11-202.1.

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

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

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

(i) Is [founded and operated by a church or other religious institution or organization of churches or religious institutions as an integral part of the religious ministry of that institution or organization] **ESTABLISHED FOR RELIGIOUS EDUCATIONAL PURPOSES;**

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

[**(ii)** **(III)** Offers **ONLY** sectarian instruction [only] designed for and aimed at [persons] **INDIVIDUALS** who hold or seek to learn **THE** particular religious faiths or beliefs [of religious institutions or religious organizations, and

provides only educational programs for religious vocations; and] **TAUGHT BY THE INSTITUTION;**

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

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

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

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

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

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

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

[(2)] **(D)** The Commission shall adopt regulations establishing procedures and standards for the submission and evaluation of the **APPLICATION FOR EXEMPTION, RENEWAL APPLICATION, AND** reports and financial statements submitted by **RELIGIOUS EDUCATIONAL** institutions [under this subsection].

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

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

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

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

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

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

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

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

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

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

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

(VI) IF APPLICABLE, THE INSTITUTION:

1. IS NOT ACCREDITED; OR

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

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

(1) In a form approved by the Commission;

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

and

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

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

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

Approved by the Governor, April 9, 2013.