

# SENATE BILL 427

F2

(6lr2119)

## ENROLLED BILL

— Education, Health, and Environmental Affairs/Appropriations —

Introduced by **Senators Pinsky, Conway, Ferguson, Guzzone, Middleton, Raskin, and Young**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Higher Education – Institutions of Postsecondary Education – Consumer**  
3 **Protection Provisions**

4 FOR the purpose of prohibiting certain private career schools and certain for-profit  
5 institutions of higher education from enrolling certain students in certain programs  
6 under certain circumstances; requiring the Maryland Higher Education Commission  
7 to create certain guaranty funds; specifying the uses of certain guaranty funds;  
8 ~~including a certain occurrence as grounds for reimbursement of certain students~~  
9 ~~from certain guaranty funds;~~ requiring certain students to follow certain complaint  
10 procedures of certain institutions before making a claim to certain guaranty funds;  
11 authorizing certain students to make a certain claim to certain guaranty funds under  
12 certain circumstances; requiring a certain report to include certain information;  
13 requiring certain institutions of postsecondary education to ensure that a net price  
14 calculator is posted on its Web site in a certain location; requiring certain institutions

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 to provide certain information to certain students under certain circumstances;  
 2 providing for the application of a certain provision of this Act; and generally relating  
 3 to consumer protection provisions that impact institutions of postsecondary  
 4 education.

5 BY adding to  
 6 Article – Commercial Law  
 7 Section 13–320  
 8 Annotated Code of Maryland  
 9 (2013 Replacement Volume and 2015 Supplement)

10 BY repealing and reenacting, without amendments,  
 11 Article – Education  
 12 Section 10–101(i) and (j)  
 13 Annotated Code of Maryland  
 14 (2014 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, with amendments,  
 16 Article – Education  
 17 Section 11–203(d) and (e) and 15–118  
 18 Annotated Code of Maryland  
 19 (2014 Replacement Volume and 2015 Supplement)

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

22 **Article – Commercial Law**

23 **13–320.**

24 **A PRIVATE CAREER SCHOOL OR FOR-PROFIT INSTITUTION OF HIGHER**  
 25 **EDUCATION, AS DEFINED UNDER § ~~10–101(j)~~ 10–101 OF THE EDUCATION ARTICLE,**  
 26 **MAY NOT ENROLL A STUDENT IN A PROGRAM THAT IS INTENDED TO LEAD TO**  
 27 **EMPLOYMENT IN A FIELD THAT REQUIRES LICENSURE OR CERTIFICATION IN THE**  
 28 **STATE IF:**

29 **(1) SUCCESSFUL COMPLETION OF THE EDUCATIONAL COURSE**  
 30 **OFFERINGS IN THE PROGRAM AT THE PRIVATE CAREER SCHOOL OR FOR-PROFIT**  
 31 **INSTITUTION OF HIGHER EDUCATION WILL NOT MEET THE STATE EDUCATIONAL**  
 32 **REQUIREMENTS FOR LICENSURE OR CERTIFICATION;**

33 **~~(2) THE PRIVATE CAREER SCHOOL DOES NOT HOLD THE~~**  
 34 **~~APPROPRIATE ACCREDITATION RECOGNIZED BY THE LICENSING ENTITY OF THE~~**  
 35 **~~STATE; OR~~**

1 (2) THE STATE ENTITY THAT LICENSES OR CERTIFIES INDIVIDUALS  
2 IN THE FIELD REQUIRES AS A CONDITION OF LICENSURE OR CERTIFICATION THAT  
3 THE PRIVATE CAREER SCHOOL OR FOR-PROFIT INSTITUTION OF HIGHER  
4 EDUCATION ATTENDED BY THE INDIVIDUAL SATISFIES A STATUTORY OR  
5 REGULATORY REQUIREMENT, AND THE SCHOOL DOES NOT SATISFY THE  
6 REQUIREMENT; OR

7 (3) THE PRIVATE CAREER SCHOOL OR FOR-PROFIT INSTITUTION OF  
8 HIGHER EDUCATION IS AWARE OR REASONABLY SHOULD HAVE BEEN AWARE OF ANY  
9 OTHER CHARACTERISTICS OF THE STUDENT OR OF THE PROGRAM FACTORS THAT  
10 ~~WOULD~~ MAY LEAD TO THE INELIGIBILITY OF THE STUDENT TO SEEK PURSUE OR  
11 OBTAIN LICENSURE OR CERTIFICATION IN THE STATE.

12 **Article – Education**

13 10–101.

14 (i) (1) “Institution of postsecondary education” means a school or other  
15 institution that offers an educational program in the State for individuals who are at least  
16 16 years old and who have graduated from or left elementary or secondary school.

17 (2) “Institution of postsecondary education” does not include:

18 (i) Any adult education, evening high school, or high school  
19 equivalence program conducted by a public school system of the State; or

20 (ii) Any apprenticeship or on-the-job training program subject to  
21 approval by the Apprenticeship and Training Council.

22 (j) “Private career school” means a privately owned and privately operated  
23 institution of postsecondary education other than an institution of higher education that  
24 furnishes or offers to furnish programs, whether or not requiring a payment of tuition or  
25 fee, for the purpose of training, retraining, or upgrading individuals for gainful employment  
26 as skilled or semiskilled workers or technicians in recognized occupations or in new and  
27 emerging occupations.

28 11–203.

29 (d) (1) By [rule and] regulation, the Commission [may]:

30 (I) SHALL create and provide for the operation of [three] TWO  
31 separate guaranty funds for:

32 [(i)] 1. For-profit institutions of higher education; AND

1                                   (ii) 2.       Private career schools; and

2                                   (iii) (II)    [Institutions] MAY CREATE AND PROVIDE FOR THE  
3 OPERATION OF A GUARANTY FUND FOR INSTITUTIONS of higher education that are  
4 required to register under § 11–202.2 of this subtitle.

5                                   ~~(2) (i)    [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,~~  
6 ~~THE private career school fund shall be used:~~

7                                   ~~1.       To [reimburse] PROVIDE A FULL REIMBURSEMENT TO~~  
8 ~~any student at a private career school who is entitled to a refund of tuition and fees because~~  
9 ~~the institution has failed to perform faithfully any agreement or contract with the student,~~  
10 ~~INCLUDING CLOSURE OF THE SCHOOL, or failed to comply with any provision of this~~  
11 ~~article; or~~

12                                   ~~2.       For any other function directly related to the original~~  
13 ~~purpose of the fund deemed appropriate by the Secretary.~~

14                                   ~~(ii)    [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,~~  
15 ~~THE for-profit institution of higher education fund shall be used to [reimburse] PROVIDE~~  
16 ~~A FULL REIMBURSEMENT TO any student at a for-profit institution of higher education~~  
17 ~~who is entitled to a refund of tuition and fees because the institution has failed to perform~~  
18 ~~faithfully any agreement or contract with the student, INCLUDING CLOSURE OF THE~~  
19 ~~SCHOOL, or failed to comply with any provision of this article.~~

20                                   **(2) (I)    THE FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION**  
21 **FUND AND THE PRIVATE CAREER SCHOOL FUND SHALL BE USED:**

22                                   **1.    IN THE EVENT OF A SCHOOL CLOSURE BY A**  
23 **FOR-PROFIT INSTITUTION OF HIGHER EDUCATION OR A PRIVATE CAREER SCHOOL,**  
24 **TO PROVIDE A FULL REFUND OF TUITION AND FEES INCURRED BY A STUDENT THAT**  
25 **HAVE NOT BEEN REIMBURSED OR DISCHARGED;**

26                                   **2.    SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**  
27 **TO PROVIDE A REFUND, AS DETERMINED BY THE SECRETARY, OF TUITION AND FEES**  
28 **INCURRED BY A STUDENT THAT HAVE NOT BEEN REIMBURSED OR DISCHARGED, IF**  
29 **A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION OR A PRIVATE CAREER SCHOOL**  
30 **FAILS TO:**

31                                   **A.   PERFORM FAITHFULLY ANY ENROLLMENT**  
32 **AGREEMENT OR CONTRACT WITH THE STUDENT; OR**

33                                   **B.   COMPLY WITH ANY PROVISIONS OF THIS ARTICLE; OR**

**3. FOR ANY OTHER REASON DIRECTLY RELATED TO THE ORIGINAL PURPOSE OF THE FUND DEEMED APPROPRIATE BY THE SECRETARY.**

~~(iii)~~ **(II)** 1. The fund for institutions of higher education that are required to register under § 11–202.2 of this subtitle shall be used to reimburse any student at any of these institutions who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article.

2. A. After 3 years of claims history during which no claim against the fund has been sustained on behalf of a Maryland student participating in a fully online distance education program offered in the State by an institution registered under § 11–202.2 of this subtitle, the Commission shall exempt that institution from the requirement to contribute to the fund.

B. Notwithstanding subsubsubparagraph A of this subsubparagraph, an institution shall be required to contribute to the fund following a claim against the fund being sustained on behalf of a Maryland student participating in a fully online distance education program offered in the State by the institution.

3. Notwithstanding subsubparagraph 2 of this subparagraph, a student who takes courses from an institution exempted from contribution to the fund under subsubparagraph 2 of this subparagraph may make a claim against the fund in accordance with subsubparagraph 1 of this subparagraph.

~~(iv)~~ **(III)** 1. The funds shall be continuing, nonlapsing funds, not subject to § 7–302 of the State Finance and Procurement Article.

2. Any unspent portions of the funds may not be transferred or revert to the General Fund of the State, but shall remain in the funds to be used for the purposes specified in this subsection.

3. No other State money may be used to support the funds.

~~(v)~~ **(IV)** The Commission shall be subrogated to and may enforce the claim of any student to the extent of any actual or authorized reimbursement from the funds.

**(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A STUDENT SHALL FOLLOW THE COMPLAINT PROCESS OF THE INSTITUTION BEFORE MAKING A CLAIM UNDER PARAGRAPH (2)(I)2 ~~PARAGRAPH (2)(I)2~~ OF THIS SUBSECTION TO A GUARANTY FUND ESTABLISHED UNDER THIS SECTION.**

**(II) IF AN INSTITUTION DOES NOT RESPOND WITHIN 30 DAYS AFTER THE RECEIPT OF A COMPLAINT FILED UNDER SUBPARAGRAPH (I) OF THIS**

1 **PARAGRAPH, THE STUDENT MAY MAKE A CLAIM TO A GUARANTY FUND ESTABLISHED**  
 2 **UNDER THIS SECTION.**

3 **[(3)] (4)** (i) Each for-profit institution of higher education or private  
 4 career school that is required to obtain a certificate of approval and, subject to paragraph  
 5 (2)(iii)2 of this subsection, each institution of higher education required to register under §  
 6 11-202.2 of this subtitle shall pay an annual fee into the appropriate fund.

7 (ii) The Commission shall determine the amount of the fee based on  
 8 the probable amount of money needed for the funds for each fiscal year. If the moneys in  
 9 the guaranty funds are insufficient to satisfy duly authorized claims, the participating  
 10 institutions may be reassessed and shall pay the additional amounts required.

11 (iii) The Commission may not issue a certificate of approval or  
 12 registration to, and shall revoke any certificate of approval or registration previously issued  
 13 to, an institution that fails to pay any annual fee or reassessment.

14 (iv) The Commission shall deposit into the appropriate fund any  
 15 penalty assessed against a for-profit institution of higher education, institution of higher  
 16 education required to register under § 11-202.2 of this subtitle, or private career school,  
 17 respectively, under the terms of § 11-204 of this subtitle.

18 **[(4)] (5)** (i) The funds shall be maintained by the State Comptroller  
 19 who may deposit the assets of the funds in any manner that is consistent with the purposes  
 20 of the funds.

21 (ii) All interest or other return on fund investments shall be credited  
 22 to the funds.

23 **[(5)] (6)** The Commission, through the Attorney General, may enforce any  
 24 claim to which the Commission has been subrogated under this subsection.

25 (e) On or before December 1 each year, the Commission shall report to the  
 26 Governor and, in accordance with § 2-1246 of the State Government Article, the General  
 27 Assembly, regarding:

28 (1) The number of claims made against each guaranty fund established  
 29 under this section;

30 (2) The type, size, and program of the institutions against which the claims  
 31 are made;

32 **(3) THE REASON FOR THE CLAIM, INCLUDING WHETHER THE PRIVATE**  
 33 **CAREER SCHOOL OR FOR-PROFIT INSTITUTION OF HIGHER EDUCATION CLOSED**  
 34 **AND, IF SO, WHETHER SOME STUDENTS WERE ABLE TO FINISH THEIR PROGRAM**  
 35 **DESPITE THE CLOSURE AND, IF SO, HOW MANY;**

1            [(3)] (4)        The number of claims that are approved and the associated  
2 payouts from the funds; and

3            [(4)] (5)        The number of claims that are denied.

4 [15–118.] 11–408.

5            [(a) This section applies to a public senior higher education institution and a  
6 community college in the State.]

7            (A) EACH INSTITUTION OF POSTSECONDARY EDUCATION THAT OPERATES  
8 IN THE STATE AND THAT IS REQUIRED TO MAKE A NET PRICE CALCULATOR  
9 PUBLICLY AVAILABLE ON ITS WEB SITE UNDER THE FEDERAL HIGHER EDUCATION  
10 OPPORTUNITY ACT OF 2008, 20 U.S.C.A. § 1015A, SHALL ENSURE THAT THE NET  
11 PRICE CALCULATOR IS POSTED ON ITS WEB SITE IN A CONSPICUOUS LOCATION.

12            (b) (1) [Beginning in the 2014–2015 academic year, for] FOR all first–time,  
13 full–time undergraduate [freshmen, an institution of higher education] STUDENTS AT AN  
14 INSTITUTION OF POSTSECONDARY EDUCATION THAT OPERATES IN THE STATE, THE  
15 INSTITUTION shall provide to the student information on the cost of higher education at  
16 the institution by completing and mailing or providing electronically, at a minimum, the  
17 information contained on the form known as the Financial Aid Shopping Sheet, as  
18 promulgated by the U.S. Department of Education.

19            (2) The Financial Aid Shopping Sheet or the information contained on the  
20 Financial Aid Shopping Sheet shall be mailed or provided electronically to the student at  
21 the same time that an award of federal financial aid is mailed or provided electronically to  
22 the student.

23            SECTION 2. AND BE IT FURTHER ENACTED, That § 11–203(d)(2)(i)1 of the  
24 Education Article, as enacted by Section 1 of this Act, does not apply to a for–profit  
25 institution of higher education that underwent an orderly closure on or before October 1,  
26 2016, that included a ~~teachout that was finalized on or before January 1, 2016~~ teach–out  
27 plan:

28            (1) to teach–out the students enrolled in the for–profit institution of higher  
29 education at the time of closure;

30            (2) that requires a teach–out to be conducted by the for–profit institution of  
31 higher education;

32            (3) that requires a teach–out to be provided to the students using the same  
33 method of instructional delivery that was provided to the students on or before October 1,  
34 2016; and

1                   (4)    that requires completion on or before December 31, 2017.

2                   SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
3   October 1, 2016.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.