
By: Delegates Dembrow, Beck, Flanagan, Hixson, Jacobs, Heller, Kittleman, and Muse

Introduced and read first time: February 2, 1996

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education - Certificate of Approval for Institution of Postsecondary Education -**
3 **Exemption**

4 FOR the purpose of exempting certain institutions of postsecondary education that are
5 engaged in the preparation of teachers from obtaining a certificate of approval from
6 the Maryland Higher Education Commission if neither the institution nor the
7 students attending the institution receive any State funds or other State assistance;
8 requiring certain institutions of postsecondary education that are authorized to
9 operate without a certificate of approval from the Commission to file a certain
10 financial statement with the Commission; providing appeal rights to certain
11 institutions of postsecondary education; and generally relating to the authority of
12 certain institutions of postsecondary education to operate in the State without a
13 certificate of approval from the Maryland Higher Education Commission.

14 BY repealing and reenacting, with amendments,
15 Article - Education
16 Section 11-202
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1995 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 11-202.

23 (a) Except as provided in subsection (c) of this section, an institution of
24 postsecondary education may not commence or continue to operate, do business, or
25 function without a certificate of approval from the Commission.

26 (b) The Commission shall issue a certificate of approval to an institution of
27 postsecondary education if it finds that:

28 (1) The facilities, conditions of entrance and scholarship, and educational
29 qualifications and standards are adequate and appropriate for:

30 (i) The purposes of the institution; and

2

1 (ii) The programs, training, and courses to be offered by the
2 institution; and

3 (2) The proposed programs to be offered by the institution meet the
4 educational needs of the State.

5 (c) Subject to the requirements imposed by subsection (d) of this section, the
6 following institutions of postsecondary education may operate without a certificate of
7 approval from the Commission:

8 (1) A nonpublic institution of higher education operating under a charter
9 granted by the General Assembly;

10 (2) A religious degree-granting institution which certifies, in accordance
11 with procedures established by the Commission, that it:

12 (i) Is founded and operated by a church or organization of churches
13 as an integral part of the religious ministry of that church or organization;

14 (ii) Offers sectarian instruction only designed for and aimed at persons
15 who hold or seek to learn particular religious faiths or beliefs of churches or religious
16 organizations, and provides only educational programs for religious vocations; and

17 (iii) States on the diploma or degree the religious nature of the degree;
18 [and]

19 (3) A church or other religious institution offering a postsecondary
20 instructional program leading to a diploma or certificate only if designed for and aimed at
21 persons who hold or seek to learn the particular religious faith or beliefs of that church or
22 religious organization, and providing only educational programs for religious purposes;
23 AND

24 (4) A NONPUBLIC INSTITUTION OF HIGHER EDUCATION OPERATING
25 FOR THE PREPARATION OF TEACHERS, PROVIDED THE INSTITUTION RECEIVES NO
26 FUNDS FROM STATE GOVERNMENT NOR ANY OTHER FINANCIAL ASSISTANCE FROM
27 THE STATE FOR THE INSTITUTION OR FOR ANY STUDENT ATTENDING THE
28 INSTITUTION.

29 (d) (1) (i) Each institution of postsecondary education authorized to operate
30 without a certificate of approval under subsection (c)(2) [or], (3), OR(4) of this section
31 shall submit, every 2 years, a financial statement compiled by an independent accountant
32 employed by the institution to the Commission.

33 (ii) These institutions of postsecondary education may not commence
34 or continue to operate, do business, or function unless the Commission determines on the
35 basis of the financial statement submitted by the institution under this section that the
36 institution possesses adequate financial resources to support its educational program.

37 (2) (i) The Commission shall adopt regulations establishing procedures
38 and standards for the submission and evaluation of the reports and financial statements
39 submitted by institutions of postsecondary education under this subsection.

1 (ii) Any institution under subsection (c)(2) [or], (3), OR(4) of this
2 section denied the right to operate has the right to judicial review as provided by the
3 Administrative Procedure Act.

4 (e) Nothing in this section precludes an institution of postsecondary education
5 authorized under subsection (c)(2) [or], (3), OR (4) of this section to operate without a
6 certificate of approval from seeking certification from the Commission.

7 (f) (1) If the Commission believes that an institution of postsecondary
8 education that applies for a certificate of approval does not meet the conditions or
9 standards necessary for the issuance of the certificate, the Commission shall give the
10 institution written notice of the specific deficiencies.

11 (2) Within 20 days of receipt of a notice of deficiencies, the institution may
12 request a hearing before the Commission, and within 60 days of receipt of the request the
13 Commission shall hold a hearing to determine if the certificate of approval should be
14 issued.

15 (3) If, within 6 months from the date on which the application for
16 certification was submitted to the Commission, the institution has received neither a
17 certificate of approval under subsection (b) of this section nor written notice of
18 deficiencies under this subsection, the institution may request within 20 days a hearing
19 before the Commission to determine if the certificate of approval should be issued.

20 (g) (1) Any institution of postsecondary education that is denied a certificate of
21 approval by the Commission after a hearing granted under subsection (f) of this section
22 has the right to judicial review provided by Title 10, Subtitle 2 of the State Government
23 Article.

24 (2) The decision of the Commission shall be presumed correct, and the
25 institution has the burden of proving otherwise.

26 (3) The Commission shall be a party to the proceeding.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1996.