

HOUSE BILL 1174

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9lr2716

By: **Delegates Myers, Beitzel, Boteler, Kelly, Krebs, Miller, Serafini, Stifler, and Stull**

Introduced and read first time: February 13, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Private Career Schools – Financial Guarantee**
3 **Requirements**

4 FOR the purpose of requiring certain private career schools to maintain certain
5 financial guarantees under certain circumstances; requiring the financial
6 guarantees to be in certain forms and in certain amounts; and generally
7 relating to financial guarantee requirements at private career schools.

8 BY repealing and reenacting, with amendments,
9 Article – Education
10 Section 11–203
11 Annotated Code of Maryland
12 (2008 Replacement Volume)

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

15 **Article – Education**

16 11–203.

17 (a) The Commission may require any institution of postsecondary education
18 that is required to obtain a certificate of approval to furnish a performance bond or
19 other form of financial guarantee to the State conditioned that the institution will:

20 (1) Perform faithfully all agreements or contracts it makes with its
21 students; and

22 (2) Comply with this article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) [Any] **FOR DEGREE-GRANTING INSTITUTIONS, ANY** bond or guarantee
2 required under this section shall be in the form and amount the Secretary requires.

3 (c) (1) **IN ADDITION TO THE GUARANTY FUND AUTHORIZED IN**
4 **SUBSECTION (E) OF THIS SECTION, THE SECRETARY MAY REQUIRE A FINANCIAL**
5 **GUARANTEE FOR PRIVATE CAREER SCHOOLS IN ACCORDANCE WITH THIS**
6 **SUBSECTION.**

7 (2) (I) **PRIVATE CAREER SCHOOLS THAT ARE SEEKING AN**
8 **INITIAL CERTIFICATE OF APPROVAL SHALL MAINTAIN A FINANCIAL GUARANTEE**
9 **FOR 5 YEARS.**

10 (II) **THE FINANCIAL GUARANTEE SHALL BE:**

11 1. **IN THE FORM OF A PERFORMANCE BOND OR A**
12 **LETTER OF CREDIT; AND**

13 2. **IN AN AMOUNT THAT IS SUFFICIENT TO PROTECT**
14 **100% OF THE TUITION LIABILITY OF THE MAXIMUM STUDENT ENROLLMENT OF**
15 **THE SCHOOL, UP TO A MAXIMUM OF \$300,000, UNLESS THE SECRETARY**
16 **DETERMINES THAT A LESSER PERCENTAGE IS SUFFICIENT BASED ON THE**
17 **FINANCIAL CONDITION OF THE SCHOOL AS REFLECTED IN AN AUDITED**
18 **FINANCIAL STATEMENT.**

19 (3) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
20 **PARAGRAPH, PRIVATE CAREER SCHOOLS THAT HAVE HAD A CERTIFICATE OF**
21 **APPROVAL FOR MORE THAN 5 YEARS MAY NOT BE REQUIRED TO HAVE A**
22 **FINANCIAL GUARANTEE.**

23 (II) **THE SECRETARY MAY REQUIRE A PRIVATE CAREER**
24 **SCHOOL TO MAINTAIN A FINANCIAL GUARANTEE IF THE SECRETARY**
25 **DETERMINES THAT THE SCHOOL DOES NOT:**

26 1. **MEET THE UNITED STATES DEPARTMENT OF**
27 **EDUCATION FINANCIAL CRITERIA REQUIRED TO PARTICIPATE IN FEDERAL**
28 **FINANCIAL AID PROGRAMS; OR**

29 2. **MEET A ONE-TO-ONE RATIO OF LIABILITIES TO**
30 **ASSETS BASED ON REVIEWED FINANCIAL STATEMENTS.**

31 (III) **IF THE SECRETARY DETERMINES THAT A FINANCIAL**
32 **GUARANTEE IS REQUIRED, THE GUARANTEE SHALL BE:**

1 **1. IN THE FORM OF A PERFORMANCE BOND OR A**
2 **LETTER OF CREDIT; AND**

3 **2. IN AN AMOUNT THAT IS SUFFICIENT TO PROTECT**
4 **30% OF THE TUITION LIABILITY OF ENROLLED STUDENTS, UP TO A MAXIMUM OF**
5 **\$300,000.**

6 **(4) PRIVATE CAREER SCHOOLS THAT OFFER PROGRAMS BY**
7 **DISTANCE EDUCATION SHALL MAINTAIN A FINANCIAL GUARANTEE FOR EACH**
8 **DISTANCE EDUCATION PROGRAM THAT IS:**

9 **(I) IN THE FORM OF A PERFORMANCE BOND OR A LETTER**
10 **OF CREDIT; AND**

11 **(II) IN AN AMOUNT THAT IS SUFFICIENT TO PROTECT 100%**
12 **OF THE TUITION LIABILITY OF STUDENTS ENROLLED IN THE DISTANCE**
13 **EDUCATION PROGRAM, UP TO A MAXIMUM OF \$300,000.**

14 **(D) (1) The total liability of a surety on a bond or guarantee under this**
15 **section may not exceed the amount of the bond or guarantee.**

16 (2) If the total amount of claims filed against a bond or guarantee
17 exceeds the amount of the bond or guarantee, the surety shall pay the amount of the
18 bond or guarantee to the Secretary for distribution to the claimants.

19 [[d)] **(E) (1) By rule and regulation, the Commission may create and**
20 **provide for the operation of a guaranty fund for private career schools.**

21 (2) (i) The fund shall be used:

22 1. To reimburse any student at a private career school
23 who is entitled to a refund of tuition and fees because the institution has failed to
24 perform faithfully any agreement or contract with the student or failed to comply with
25 any provision of this article; or

26 2. For any other function directly related to the original
27 purpose of the fund deemed appropriate by the Secretary.

28 (ii) The Commission shall be subrogated to and may enforce the
29 claim of any student to the extent of any actual or authorized reimbursement from the
30 fund.

31 (3) (i) Each private career school that is required to obtain a
32 certificate of approval shall pay an annual fee into the fund.

1 (ii) The Commission shall determine the amount of the fee
2 based on the probable amount of money needed for the fund for each fiscal year. If the
3 moneys in the guaranty fund are insufficient to satisfy duly authorized claims, the
4 participating institutions may be reassessed and shall pay the additional amounts
5 required.

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

9 (iv) The Commission shall deposit into the fund any penalty
10 assessed against a private career school under the terms of § 11-204 of this subtitle.

11 (4) (i) The fund shall be maintained by the State Comptroller who
12 may deposit the assets of the fund in any manner that is consistent with the purposes
13 of the fund.

14 (ii) All interest or other return on fund investment shall be
15 credited to the fund.

16 (5) The Commission, through the Attorney General, may enforce any
17 claim to which the Commission has been subrogated under this subsection.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2009.