

# SENATE BILL 63

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3lr0070

(PRE-FILED)

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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 22, 2013

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

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; requiring the revenues from certain fees to be  
7 distributed to a certain fund; altering certain conditions under which the  
8 Commission may authorize certain religious educational institutions to operate  
9 without a certificate of approval; requiring certain religious educational  
10 institutions to obtain a certificate of approval under certain circumstances;  
11 clarifying certain procedures and establishing certain additional requirements  
12 related to certain religious educational institutions; and generally relating to  
13 renewal fees for all institutions of postsecondary education and exempt and  
14 nonexempt religious educational institutions.

15 BY repealing and reenacting, with amendments,  
16 Article – Education  
17 Section 11–105(o) and 11–202.1  
18 Annotated Code of Maryland  
19 (2008 Replacement Volume and 2012 Supplement)

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

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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.



1 **Article – Education**

2 11–105.

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

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

6 **(II) AN EXEMPTION FROM CERTIFICATION TO OPERATE IN**  
7 **THE STATE UNDER § 11–202.1(B) OF THIS TITLE; OR**8 **[(ii)] (III)** Except for actions relating to programs offered at a  
9 regional higher education center, approval of any academic program action taken  
10 under Subtitle 2 of this title.11 (2) (i) The revenues from application AND RENEWAL fees shall be  
12 distributed to a special, nonlapsing fund that is not subject to § 7–302 of the State  
13 Finance and Procurement Article.14 (ii) Subject to subparagraph (iii) of this paragraph, the special  
15 fund may be used only to carry out the provisions of Subtitle 2 of this title.16 (iii) At the end of each fiscal year, any amount in excess of  
17 \$100,000 shall revert to the General Fund.18 (iv) Any investment earnings of the fund shall be credited to the  
19 General Fund.20 (3) Subject to the provisions of § 11–203 of this title, the Commission  
21 may require bonds or other financial guaranties from institutions of postsecondary  
22 education seeking certification or recertification to operate in the State.

23 11–202.1.

24 (a) A private nonprofit institution of higher education operating under a  
25 charter granted by the General Assembly may operate without a certificate of approval  
26 from the Commission.27 (b) **(1)** Subject to the requirements imposed by [subsection (c) of] this  
28 section, **AND EXCEPT AS PROHIBITED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
29 **[the following institutions of postsecondary education] A RELIGIOUS EDUCATIONAL**  
30 **INSTITUTION** may operate without a certificate of approval from the Commission **IF**  
31 **THE INSTITUTION:**

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

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

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

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

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

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

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

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

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

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

33           [(ii)] **(2) May not commence or continue to operate, do  
34 business, or function unless the Commission determines on the basis of the financial**

1 statement submitted by the institution that the institution possesses adequate  
2 financial resources to support the institution's educational program.

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

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

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

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

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

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

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

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

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

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

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

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

8 (vi) IF APPLICABLE, THE INSTITUTION:

9 1. IS NOT ACCREDITED; OR

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

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

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

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.