

SENATE BILL 110

F2

4lr0072

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Higher Education Commission)**

Requested: October 15, 2013

Introduced and read first time: January 8, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Institutions of Higher Education – Fully Online Distance Education –**
3 **Registration**

4 FOR the purpose of repealing, altering, and adding certain defined terms relating to
5 the registration of certain institutions of higher education that offer certain
6 online distance education programs; and generally relating to institutions of
7 higher education and fully online distance education.

8 BY repealing and reenacting, with amendments,
9 Article – Education
10 Section 11–202.2
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2013 Supplement)

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 11–202.2.

17 (a) (1) In this subtitle the following words have the meanings indicated.

18 (2) [“Distance education” means course work taught by an institution
19 of higher education through electronic distribution of instruction to a site other than
20 the principal location of the institution and advertised or described as leading to the
21 formal award of a certificate or degree.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3)] “Fully online distance education program in the State” means a
2 program [in which:

3 (i) 100% of the program is offered through electronic
4 distribution of instruction to one or more sites other than the principal location of an
5 institution; or

6 (ii) 51% or more of the program is offered through electronic
7 distribution of instruction to one or more sites other than the principal location of an
8 institution and the Commission has determined that the portion of the program
9 offered at a location in the State, if any, does not require a certificate of approval for
10 the institution to operate, do business, or function in the State] **OFFERED BY AN
11 OUT-OF-STATE INSTITUTION IN WHICH A STUDENT DOMICILED IN MARYLAND
12 ENROLLS, WHERE ALL CURRICULA IN THE PROGRAM ARE WHOLLY ONLINE AND
13 ORIGINATE OUTSIDE MARYLAND.**

14 **(3) “OUT-OF-STATE INSTITUTION” MEANS AN INSTITUTION OF
15 HIGHER EDUCATION WHOSE PRIMARY CAMPUS EXISTS OUTSIDE MARYLAND
16 AND WHOSE AUTHORITY TO GRANT DEGREES IS CONFERRED BY ANOTHER
17 STATE.**

18 (b) (1) An institution of higher education that enrolls Maryland students
19 in a fully online distance education program in the State shall file an application to
20 register with the Commission before or within 3 months of enrolling the first
21 Maryland student.

22 (2) This section does not apply to an institution of higher education
23 that enrolls Maryland students in a fully online distance education program in the
24 State that:

25 (i) Is subject to program review by the Commission under §
26 11–206 or § 11–206.1 of this subtitle; or

27 (ii) Participates in the Southern Regional Education Board’s
28 Electronic Campus.

29 (3) (i) After filing an application under paragraph (1) of this
30 subsection, an institution that has enrolled a Maryland student before obtaining a
31 registration under this section may continue to operate without a registration while
32 the Commission considers the institution’s application, conducts a hearing concerning
33 the institution’s application, or participates in judicial review regarding an
34 institution’s application.

35 (ii) An institution that continues to operate without a
36 registration under subparagraph (i) of this paragraph shall furnish a performance
37 bond or other form of financial guarantee to the State in an amount set by regulation

1 that is in addition to and separate from a performance bond or other form of financial
2 guarantee required under § 11–203 of this subtitle.

3 (c) Each institution of higher education required to register under this
4 section shall:

5 (1) Be accredited by an accrediting body recognized and approved by
6 the United States Department of Education;

7 (2) Submit to the Commission:

8 (i) Every 2 years, a financial statement reviewed by an
9 independent accountant retained by the institution;

10 (ii) An affidavit from the president or chief executive officer of
11 the institution affirming:

12 1. That the institution has not filed for bankruptcy
13 protection under Title 11 of the United States Code during its existence; and

14 2. The willingness of the president or the chief executive
15 officer to abide by the provisions of this section;

16 (iii) Proof of good business standing in the state in which the
17 central administration of the institution is incorporated; and

18 (iv) Proof of good academic standing submitted by:

19 1. The regulatory higher education entity in the state in
20 which the central administration of the institution is located; or

21 2. If the state in which the institution is located does not
22 have a regulatory higher education entity, the accrediting body that accredited the
23 institution;

24 (3) Promptly notify the Commission of a change in ownership or a
25 change in majority control;

26 (4) Comply with the Principles of Good Practice for distance education
27 established by the Commission through regulation;

28 (5) Make public and post on the institution's Web site:

29 (i) Whether the institution is registered in Maryland; and

30 (ii) The process by which to make complaints against the
31 institution;

1 (6) Comply with the refund policy and procedures established by the
2 Commission; and

3 (7) Be subject to complaint investigation by the Office of the Attorney
4 General or the Commission or both.

5 (d) The refund policy and procedures established by the Commission shall
6 allow for:

7 (1) (i) At least 2 weeks of required orientation or preenrollment
8 instruction in a fully online distance education program in the State at no charge for a
9 student who has completed less than 24 credits of college-level learning from an
10 accredited institution; and

11 (ii) A prorated refund methodology that provides a refund to
12 any student not covered by item (i) of this paragraph who has completed 60% or less of
13 a course, term, or program within the applicable billing period; or

14 (2) A prorated refund methodology that provides a refund to any
15 student who has completed 60% or less of a course, term, or program within the
16 applicable billing period.

17 (e) (1) Subject to paragraph (2) of this subsection, the Commission shall
18 require the payment of a fee set by regulation, as a condition of registration.

19 (2) The fees charged shall be:

20 (i) A fixed amount for all institutions regardless of type,
21 location, or student enrollment; and

22 (ii) Set to cover the approximate cost of implementing a system
23 of registration.

24 (f) The Commission shall make public and post on its Web site:

25 (1) A list of registered institutions of higher education that offer fully
26 online distance education programs in the State; and

27 (2) If the Commission denies or revokes the registration of an
28 institution, the name of the denied or revoked institution.

29 (g) On or before December 1 each year, the Commission shall report to the
30 Governor and, in accordance with § 2-1246 of the State Government Article, the
31 General Assembly:

1 (1) The number of institutions of higher education that apply for
2 registration under this section;

3 (2) The type and size of the institutions that apply;

4 (3) The number of institutions approved for registration;

5 (4) The number of institutions denied registration;

6 (5) The number of Maryland students enrolled in institutions required
7 to register under this section;

8 (6) The results of the requirements of § 11–202.3 of this subtitle;

9 (7) The number of institutions found to be in violation of the
10 requirement to register under this section;

11 (8) Any fines imposed, and in what amounts, on institutions that
12 violate this section; and

13 (9) Any fine revenues collected from institutions for violation of this
14 section.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2014.