

HOUSE BILL 741

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6lr3167
CF SB 427

By: **Delegates Stein and Kaiser**

Introduced and read first time: February 5, 2016

Assigned to: Appropriations

A BILL ENTITLED

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 from enrolling certain
5 students in certain programs under certain circumstances; requiring the Maryland
6 Higher Education Commission to create certain guaranty funds; specifying the uses
7 of certain guaranty funds; including a certain occurrence as grounds for
8 reimbursement of certain students from certain guaranty funds; requiring certain
9 students to follow certain complaint procedures of certain institutions before making
10 a claim to certain guaranty funds; authorizing certain students to make a certain
11 claim to certain guaranty funds under certain circumstances; requiring a certain
12 report to include certain information; requiring certain institutions of postsecondary
13 education to ensure that a net price calculator is posted on its Web site in a certain
14 location; requiring certain institutions to provide certain information to certain
15 students under certain circumstances; and generally relating to consumer protection
16 provisions that impact institutions of postsecondary education.

17 BY adding to
18 Article – Commercial Law
19 Section 13–320
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Education
24 Section 10–101(i) and (j)
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2015 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11–203(d) and (e) and 15–118
2 Annotated Code of Maryland
3 (2014 Replacement Volume and 2015 Supplement)

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

6 **Article – Commercial Law**

7 **13–320.**

8 **A PRIVATE CAREER SCHOOL, AS DEFINED UNDER § 10–101(J) OF THE**
9 **EDUCATION ARTICLE, MAY NOT ENROLL A STUDENT IN A PROGRAM THAT IS**
10 **INTENDED TO LEAD TO EMPLOYMENT IN A FIELD THAT REQUIRES LICENSURE IN THE**
11 **STATE IF:**

12 **(1) SUCCESSFUL COMPLETION OF THE EDUCATIONAL COURSE**
13 **OFFERINGS IN THE PROGRAM AT THE PRIVATE CAREER SCHOOL WILL NOT MEET**
14 **THE STATE EDUCATIONAL REQUIREMENTS FOR LICENSURE;**

15 **(2) THE PRIVATE CAREER SCHOOL DOES NOT HOLD THE**
16 **APPROPRIATE ACCREDITATION RECOGNIZED BY THE LICENSING ENTITY OF THE**
17 **STATE; OR**

18 **(3) THE PRIVATE CAREER SCHOOL IS AWARE OF ANY OTHER**
19 **CHARACTERISTICS OF THE STUDENT OR OF THE PROGRAM THAT WOULD LEAD TO**
20 **THE INELIGIBILITY OF THE STUDENT TO SEEK OR OBTAIN LICENSURE IN THE STATE.**

21 **Article – Education**

22 10–101.

23 (i) (1) “Institution of postsecondary education” means a school or other
24 institution that offers an educational program in the State for individuals who are at least
25 16 years old and who have graduated from or left elementary or secondary school.

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

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

29 (ii) Any apprenticeship or on–the–job training program subject to
30 approval by the Apprenticeship and Training Council.

1 (j) "Private career school" means a privately owned and privately operated
2 institution of postsecondary education other than an institution of higher education that
3 furnishes or offers to furnish programs, whether or not requiring a payment of tuition or
4 fee, for the purpose of training, retraining, or upgrading individuals for gainful employment
5 as skilled or semiskilled workers or technicians in recognized occupations or in new and
6 emerging occupations.

7 11-203.

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

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

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

12 [(ii)] 2. Private career schools; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **(II) IF AN INSTITUTION DOES NOT RESPOND WITHIN 30 DAYS**
27 **AFTER THE RECEIPT OF A COMPLAINT, THE STUDENT MAY MAKE A CLAIM TO A**
28 **GUARANTY FUND ESTABLISHED UNDER THIS SECTION.**

29 **[(3)] (4) (i)** Each for–profit institution of higher education or private
30 career school that is required to obtain a certificate of approval and, subject to paragraph
31 **(2)(iii)2** of this subsection, each institution of higher education required to register under §
32 11–202.2 of this subtitle shall pay an annual fee into the appropriate fund.

33 (ii) The Commission shall determine the amount of the fee based on
34 the probable amount of money needed for the funds for each fiscal year. If the moneys in

1 the guaranty funds are insufficient to satisfy duly authorized claims, the participating
2 institutions may be reassessed and shall pay the additional amounts required.

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

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

10 [(4)] (5) (i) The funds shall be maintained by the State Comptroller
11 who may deposit the assets of the funds in any manner that is consistent with the purposes
12 of the funds.

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

15 [(5)] (6) The Commission, through the Attorney General, may enforce any
16 claim to which the Commission has been subrogated under this subsection.

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

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

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

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

28 [(3)] (4) The number of claims that are approved and the associated
29 payouts from the funds; and

30 [(4)] (5) The number of claims that are denied.

31 [15-118.] 11-408.

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

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

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

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

17 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
18 **October 1, 2016.**