

SENATE BILL 795

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EMERGENCY BILL

8lr1275

CF 8lr3710

By: **Senators Pinsky, Conway, Kagan, Nathan-Pulliam, Robinson, Young, and Zucker**

Introduced and read first time: February 5, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Private Career Schools and For-Profit Institutions of
3 Higher Education – Regulation**

4 FOR the purpose of prohibiting certain private career schools and for-profit institutions of
5 higher education from enrolling certain students unless the students are made aware
6 of certain information; requiring the Maryland Higher Education Commission to
7 require certain private career schools and for-profit institutions of higher education
8 to furnish a performance bond or other form of financial guarantee that covers
9 certain tuition liability in addition to and separate from certain other requirements;
10 requiring a certain fund established for for-profit institutions of higher education to
11 maintain a certain balance; requiring certain for-profit institutions of higher
12 education to pay a certain fee into the fund; specifying that the requirement to pay
13 a certain fee may not be satisfied by certain methods; requiring the Commission to
14 make certain calculations and refund certain money or require the payment of a
15 certain fee under certain circumstances; making a technical correction; making this
16 Act an emergency measure; and generally relating to the regulation of private career
17 schools and for-profit institutions of higher education.

18 BY repealing and reenacting, with amendments,

19 Article – Commercial Law

20 Section 13–320

21 Annotated Code of Maryland

22 (2013 Replacement Volume and 2017 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Education

25 Section 11–203

26 Annotated Code of Maryland

27 (2014 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Commercial Law**

4 13–320.

5 **(A)** A private career school or for-profit institution of higher education, as defined
6 under § 10–101 of the Education Article, may not enroll a student in a program that is
7 intended to lead to employment in a field that requires licensure or certification in the State
8 if:

9 (1) Successful completion of the educational course offerings in the
10 program at the private career school or for-profit institution of higher education will not
11 meet the State educational requirements for licensure or certification;

12 (2) The State entity that licenses or certifies individuals in the field
13 requires as a condition of licensure or certification that the private career school or
14 for-profit institution of higher education attended by the individual satisfies a statutory or
15 regulatory requirement, and the school does not satisfy the requirement; or

16 (3) The private career school or for-profit institution of higher education is
17 aware or reasonably should have been aware of any other factors that may lead to the
18 ineligibility of the student to pursue or obtain licensure or certification in the State.

19 **(B) A PRIVATE CAREER SCHOOL OR FOR–PROFIT INSTITUTION OF HIGHER
20 EDUCATION MAY NOT ENROLL A STUDENT UNLESS THE INSTITUTION MAKES THE
21 STUDENT AWARE OF THE FOLLOWING INFORMATION:**

22 (1) **TOTAL COST OF THE PROGRAM;**

23 (2) **LENGTH OF THE PROGRAM;**

24 (3) **REFUND INFORMATION;**

25 (4) **TRANSFERABILITY OF CREDITS; AND**

26 (5) **THE COHORT DEFAULT RATE OF THE INSTITUTION.**

27 **Article – Education**

28 11–203.

29 (a) (1) **[The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
30 Commission may require any institution of postsecondary education that is required to
31 obtain a certificate of approval or an institution of higher education that is required to

1 register under § 11–202.2 of this subtitle to furnish a performance bond or other form of
2 financial guarantee for either the certificate of approval or the registration to the State
3 conditioned that the institution will:

4 [(1)] (I) Perform faithfully all agreements or contracts it makes with its
5 students; and

6 [2] (II) Comply with this article.

13 (b) [Any] EXCEPT AS PROVIDED UNDER SUBSECTION (A)(2) OF THIS
14 SECTION, ANY bond or guarantee required under this section shall be in the form and
15 amount the Secretary requires.

16 (c) (1) The total liability of a surety on a bond or guarantee under this section
17 may not exceed the amount of the bond or guarantee.

21 (d) (1) By regulation, the Commission:

22 (i) Shall create and provide for the operation of two separate
23 guaranty funds for:

24 1. For-profit institutions of higher education; and

25 2. Private career schools; and

29 (2) (i) The for-profit institutions of higher education fund and the
30 private career school fund shall be used:

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

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

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

34 (iv) The Commission shall be subrogated to and may enforce the
35 claim of any student to the extent of any actual or authorized reimbursement from the

1 funds.

2 (3) (i) Subject to subparagraph (ii) of this paragraph, a student shall
3 follow the complaint process of the institution before making a claim under paragraph
4 (2)(i)2 of this subsection to a guaranty fund established under this section.

5 (ii) If an institution does not respond within 30 days after the receipt
6 of a complaint filed under subparagraph (i) of this paragraph, the student may make a
7 claim to a guaranty fund established under this section.

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

12 (ii) The Commission shall determine the amount of the fee based on
13 the probable amount of money needed for the funds for each fiscal year. If the moneys in
14 the guaranty funds are insufficient to satisfy duly authorized claims, the participating
15 institutions may be reassessed and shall pay the additional amounts required.

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

19 (iv) The Commission shall deposit into the appropriate fund any
20 penalty assessed against [a for-profit institution of higher education,] AN institution of
21 higher education required to register under § 11–202.2 of this subtitle[,] or A private career
22 school, respectively, under the terms of § 11–204 of this subtitle.

23 (5) (I) THE FUND REQUIRED TO BE ESTABLISHED FOR
24 FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION UNDER PARAGRAPH (1)(I)1 OF
25 THIS SUBSECTION SHALL MAINTAIN A BALANCE THAT IS NOT LESS THAN THE
26 AMOUNT OF MONEY THAT WOULD BE NEEDED TO REFUND ALL OF THE MARYLAND
27 STUDENTS AT THE FOR-PROFIT INSTITUTION OF HIGHER EDUCATION THAT HAS THE
28 LARGEST STUDENT TUITION LIABILITY IN THE STATE, LESS ANY MONEY THAT
29 WOULD BE RECOVERABLE THROUGH FEDERAL LOAN DISCHARGE.

30 (II) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS
31 SUBPARAGRAPH, ON OR BEFORE AUGUST 1, 2018, EACH FOR-PROFIT INSTITUTION
32 SHALL PAY A FEE INTO THE FUND THAT IS EQUAL TO THE PERCENTAGE OF THE FUND
33 THAT IS THE NUMBER OF MARYLAND STUDENTS WHO ATTEND THE INSTITUTION,
34 MULTIPLIED BY THE AVERAGE MARYLAND STUDENT TUITION LIABILITY AT THAT
35 INSTITUTION, DIVIDED BY THE TOTAL MARYLAND STUDENT TUITION LIABILITY AT
36 FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION THAT OPERATE IN THE STATE.

19 [(5)] (6) (i) The funds shall be maintained by the State Comptroller
20 who may deposit the assets of the funds in any manner that is consistent with the purposes
21 of the funds.

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

26 (e) On or before December 1 each year, the Commission shall report to the
27 Governor and, in accordance with § 2-1246 of the State Government Article, the General
28 Assembly.

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

(3) The reason for the claim, including whether the private career school or

1 for-profit institution of higher education closed and, if so, whether some students were able
2 to finish their program despite the closure and, if so, how many;

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

5 (5) The number of claims that are denied.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
7 measure, is necessary for the immediate preservation of the public health or safety, has
8 been passed by a yea and nay vote supported by three-fifths of all the members elected to
9 each of the two Houses of the General Assembly, and shall take effect from the date it is
10 enacted.