

By the Committee on Higher Education; and Senator Brandes

589-02538-16

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1 A bill to be entitled
2 An act relating to private postsecondary education;
3 amending s. 1005.04, F.S.; requiring certain
4 institutions to provide a student with a written
5 disclosure of all fees and costs that the student will
6 incur to complete his or her program; amending s.
7 1005.21, F.S.; revising the membership of the
8 Commission for Independent Education; amending s.
9 1005.31, F.S.; requiring the commission to include a
10 retention and completion management plan in the
11 minimum standards used to evaluate an institution for
12 licensure; requiring an institution applying for a
13 provisional license to post and maintain a surety bond
14 with the commission; specifying the amount of the
15 surety bond; specifying the amount of time the surety
16 bond remains in effect; authorizing the commission to
17 allow a cash deposit escrow account or an irrevocable
18 letter of credit as an alternative to the surety bond;
19 providing for rulemaking; requiring the commission to
20 review an application and request any necessary
21 additional information from an applicant within a
22 certain timeframe; amending s. 1005.32, F.S.; revising
23 the criteria for licensure by means of accreditation;
24 deleting the requirement that an applicant be a
25 Florida corporation; requiring an institution that
26 applies for licensure by means of accreditation to
27 file a retention and completion management plan with
28 the commission; amending s. 1005.37, F.S.; revising
29 the institutions included in the Student Protection
30 Fund to include licensed institutions; providing an
31 effective date.
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33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Subsection (1) of section 1005.04, Florida
36 Statutes, is amended to read:

37 1005.04 Fair consumer practices.—

38 (1) Every institution that is under the jurisdiction of the
39 commission or is exempt from the jurisdiction or purview of the
40 commission pursuant to s. 1005.06(1)(c) or (f) and that either
41 directly or indirectly solicits for enrollment any student
42 shall:

43 (a) Disclose to each prospective student a statement of the
44 purpose of such institution, its educational programs and
45 curricula, a description of its physical facilities, its status
46 regarding licensure, its fee schedule and policies regarding
47 retaining student fees if a student withdraws, and a statement
48 regarding the transferability of credits to and from other
49 institutions. The institution shall make the required
50 disclosures in writing at least 1 week prior to enrollment or
51 collection of any tuition from the prospective student. The
52 required disclosures may be made in the institution's current
53 catalog;

54 (b) Use a reliable method to assess, before accepting a
55 student into a program, the student's ability to complete
56 successfully the course of study for which he or she has
57 applied;

58 (c) Inform each student accurately about financial
59 assistance and obligations for repayment of loans; describe any
60 employment placement services provided and the limitations
61 thereof; and refrain from promising or implying guaranteed

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62 placement, market availability, or salary amounts;

63 (d) Provide to prospective and enrolled students accurate
64 information regarding the relationship of its programs to state
65 licensure requirements for practicing related occupations and
66 professions in Florida;

67 (e) Ensure that all advertisements are accurate and not
68 misleading;

69 (f) Publish and follow an equitable prorated refund policy
70 for all students, and follow both the federal refund guidelines
71 for students receiving federal financial assistance and the
72 minimum refund guidelines set by commission rule;

73 (g) Follow the requirements of state and federal laws that
74 require annual reporting with respect to crime statistics and
75 physical plant safety and make those reports available to the
76 public; ~~and~~

77 (h) Publish and follow procedures for handling student
78 complaints, disciplinary actions, and appeals; ~~and.~~

79 (i) Before enrollment, provide to students and prospective
80 students, in a format prescribed by the commission or by the
81 Independent Colleges and Universities of Florida for those
82 institutions exempt from the jurisdiction or purview of the
83 commission under s. 1005.06(1)(c), a written disclosure of all
84 fees and costs they will incur to complete the program.

85 Section 2. Paragraphs (c), (d), and (e) of subsection (2)
86 of section 1005.21, Florida Statutes, are amended to read:

87 1005.21 Commission for Independent Education.—

88 (2) The Commission for Independent Education shall consist
89 of seven members who are residents of this state. The commission
90 shall function in matters concerning independent postsecondary

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91 educational institutions in consumer protection, program
 92 improvement, and licensure for institutions under its purview.
 93 The Governor shall appoint the members of the commission who are
 94 subject to confirmation by the Senate. The membership of the
 95 commission shall consist of:

96 (c) Two members ~~One member~~ from a public school district or
 97 Florida College System institution who are administrators ~~is an~~
 98 ~~administrator~~ of career education.

99 ~~(d) One representative of a college that meets the criteria~~
 100 ~~of s. 1005.06(1)(f).~~

101 (d) ~~(e)~~ One lay member who is not affiliated with an
 102 independent postsecondary educational institution.

103 Section 3. Present subsection (2) of section 1005.31,
 104 Florida Statutes, is amended, present subsections (5) through
 105 (15) of that section are redesignated as subsections (6) through
 106 (16), respectively, a new subsection (5) is added to that
 107 section, and present subsection (6) of that section is amended,
 108 to read:

109 1005.31 Licensure of institutions.—

110 (2) The commission shall develop minimum standards ~~by which~~
 111 to evaluate institutions for licensure. These standards must
 112 include at least the institution's name;i financial stability;i
 113 purpose;i administrative organization;i admissions and
 114 recruitment;i educational programs and curricula;i retention
 115 and completion, including a retention and completion management
 116 plan prescribed by the commission; career placement;i faculty;i
 117 learning resources;i student personnel services;i physical plant
 118 and facilities;i publications;i and disclosure statements about
 119 the status of the institution with respect to professional

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120 certification and licensure. The commission may adopt rules to
121 ensure that institutions licensed under this section meet these
122 standards in ways that are appropriate to achieve the stated
123 intent of this chapter, including provisions for nontraditional
124 or distance education programs and delivery.

125 (5) (a) An institution applying for a provisional license
126 shall post and maintain a surety bond with the commission in a
127 format prescribed by the commission. The surety bond shall be
128 executed by a surety company authorized to do business in this
129 state, with the applicant as the principal. The surety bond
130 shall be payable to the commission to assist the commission in
131 aiding a student damaged by an institution ceasing operation
132 before the student has completed his or her contracted program.

133 (b) The surety bond must be for at least \$100,000, and may
134 not exceed 50 percent of the amount of the first year's
135 projected revenue.

136 (c) A surety bond shall remain in effect until the
137 institution applies for and receives a first annual licensure
138 renewal and demonstrates financial stability as determined by
139 the commission.

140 (d) As an alternative to a surety bond, the commission may
141 allow an institution to establish and maintain a cash deposit
142 escrow account or an irrevocable letter of credit payable to the
143 commission. The amount of the cash deposit escrow account or the
144 irrevocable letter of credit shall be the same as the bond
145 amount would have been for the institution.

146 (e) The commission may adopt rules to implement this
147 subsection.

148 (7) ~~(6)~~ The commission shall ensure through an investigative

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149 process that applicants for licensure meet the standards as
150 defined in rule. Within 60 days after receipt of an application,
151 the commission shall examine the application, notify the
152 applicant of any apparent error or omission, and request any
153 necessary additional information. When the investigative process
154 is not completed within the time set out in s. 120.60(1) and the
155 commission has reason to believe that the applicant does not
156 meet licensure standards, the commission or the executive
157 director of the commission may issue a 90-day licensure delay,
158 which shall be in writing and sufficient to notify the applicant
159 of the reason for the delay. The provisions of this subsection
160 shall control over any conflicting provisions of s. 120.60(1).

161 Section 4. Paragraph (e) of subsection (1) and subsection
162 (3) of section 1005.32, Florida Statutes, are amended to read:

163 1005.32 Licensure by means of accreditation.—

164 (1) An independent postsecondary educational institution
165 that meets the following criteria may apply for a license by
166 means of accreditation from the commission:

167 ~~(e) The institution is a Florida corporation.~~

168 (3) The commission may not require an institution granted a
169 license by means of accreditation to submit reports that differ
170 from the reports required by its accrediting association, except
171 that each institution must file with the commission an annual
172 audit report and a retention and completion management plan as
173 required in s. 1005.31. The institution must also ~~and~~ follow the
174 commission's requirements for orderly closing, including
175 provisions for trainout or refunds and arranging for the proper
176 disposition of student and institutional records.

177 Section 5. Section 1005.37, Florida Statutes, is amended to

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178 read:

179 1005.37 Student Protection Fund.—

180 (1) The commission shall establish and administer a
181 statewide, fee-supported financial program through which funds
182 will be available to complete the training of a student who
183 enrolls in a licensed institution ~~nonpublic school~~ that
184 terminates a program or ceases operation before the student has
185 completed his or her program of study. The financial program is
186 named the Student Protection Fund.

187 (2) The commission is authorized to assess a fee from the
188 licensed institutions ~~schools~~ within its jurisdiction for such
189 purpose. The commission shall assess a licensed institution
190 ~~school~~ an additional fee for its eligibility for the Student
191 Protection Fund.

192 (3) If a licensed institution ~~school~~ terminates a program
193 before all students complete it, the commission shall also
194 assess that institution ~~school~~ a fee adequate to pay the full
195 cost to the Student Protection Fund of completing the training
196 of students.

197 (4) The fund shall consist entirely of fees assessed to
198 licensed institutions ~~schools~~ and shall not be funded under any
199 circumstances by public funds, nor shall the commission make
200 payments or be obligated to make payments in excess of the
201 assessments actually received from licensed institutions ~~schools~~
202 and deposited in the Institutional Assessment Trust Fund to the
203 credit of the Student Protection Fund.

204 (5) At each commission meeting, the commission shall
205 consider the need for and shall make required assessments, shall
206 review the collection status of unpaid assessments and take all

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207 necessary steps to collect them, and shall review all moneys in
208 the fund and expenses incurred since the last reporting period.
209 This review must include administrative expenses, moneys
210 received, and payments made to students or to lending
211 institutions.

212 (6) Staff of the commission must immediately inform the
213 commission upon learning of the closing of a licensed
214 institution ~~school~~ or the termination of a program that could
215 expose the fund to liability.

216 (7) The Student Protection Fund must be actuarially sound,
217 periodically audited by the Auditor General in connection with
218 his or her audit of the Department of Education, and reviewed to
219 determine if additional fees must be charged to licensed
220 institutions ~~schools~~ eligible to participate in the fund.

221 Section 6. This act shall take effect July 1, 2016.