

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 464

INTRODUCER: Senator Flores

SUBJECT: Prepaid College Plans

DATE: March 18, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AED</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 464 modifies the Stanley G. Tate Florida Prepaid College Program to authorize that students at a state university or Florida College System (FCS) institution may use the fees associated with a dormitory residence plan to cover the cost of housing provided by a qualified nonprofit organization. The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code that provides student living housing on or near the campus of an FCS institution or state university to full-time students of that institution.

The bill also specifies that dormitory fees paid to a qualified nonprofit organization may not exceed the maximum fees charged for state university dormitories, or for fees charged for dormitories or residency opportunities provided by FCS institution or FCS institution direct-support organizations, whichever is less.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Stanley G. Tate Florida Prepaid College Program

The Legislature created the Stanley G. Tate Florida Prepaid College Program (Prepaid Program) in 1987¹ to provide Florida’s families a mechanism through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment.² Since its

¹ Section 1, ch. 1987-132, L.O.F.; *see also* Florida Prepaid College Board, *Our History*, <https://www.myfloridaprepaid.com/about-us/our-history/> (last visited Mar. 12, 2019).

² Section 1009.98(1), F.S.

inception, more than 1.9 million Prepaid Program plans have been purchased, and more than 464,000 students have attended college using Prepaid Program plans.³

The Prepaid Program is administered by the Florida Prepaid College Board (Prepaid Board).⁴ The Prepaid Board is required to make advance payment contracts available for two independent plans called the Florida College System (FCS) institution plan and the university plan.⁵ The advance payment contracts are financially guaranteed by the State of Florida⁶ and lock-in many of the costs associated with enrollment in state universities and FCS institutions (e.g., registration fees, tuition differential fees, local fees, and dormitory fees) at the time such contracts are purchased.⁷ Families may choose from the following Prepaid Program options:⁸

- 2-Year Florida College Plan (10.9 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida College Plan (6.7 percent of 2016-2017 Prepaid Plans sold).
- 2+2 Florida Plan (12.9 percent of 2016-2017 Prepaid Plans sold).
- 1-Year Florida University Plan (18.4 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida University Plan (51.1 percent of 2016-2017 Prepaid Plans sold).⁹

Dormitory Residence Plan

Dormitory plans may be added to the 2+2 Florida Plan, the 1-Year Florida University Plan, and the 4-Year Florida University Plan.¹⁰

State University Dormitory Plan

Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university.¹¹ The dormitory plan is designed to pay for a double-occupancy, air-conditioned dormitory room at a state university in Florida. Qualified beneficiaries have the highest priority in the assignment of housing within university residence halls. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan.¹²

³ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 2.

⁴ Section 1009.971(1), F.S. The Florida Prepaid College Board consists of seven members to be composed of the Attorney General, the Chief Financial Officer, the Chancellor of the State University System, the Chancellor of the Division of Florida Colleges, and three members appointed by the Governor and subject to confirmation by the Senate for a term of three years. Each member appointed by the Governor must possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Section 1009.971(2), F.S.

⁵ Section 1009.98(2), F.S. In Fall, 2016, 34,018 students attended 28 Florida College System institutions, and 56,661 students attended 12 state universities using a Prepaid Plan. Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 10-11.

⁶ Section 1009.98(7), F.S.

⁷ Section 1009.98(2), F.S.

⁸ Florida Prepaid College Board, *Plans & Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

⁹ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 7.

¹⁰ Florida Prepaid College Plan, *Plans and Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

¹¹ Section 1009.98(2)(d), F.S. A maximum of two semesters of dormitory fees may be prepaid for each year of state university coverage. *Id.*

¹² Section 1009.98(2)(d), F.S.

The value of the dormitory plan may be used to cover other university-held housing, as approved by the Prepaid Board.¹³ The Prepaid Board will provide a specified refund if the university does not have available units, or if the student lives off-campus or in privately held housing.¹⁴

Florida College System Dormitory Plan

A qualified beneficiary who does not attend a state university may use the fees associated with a dormitory residence plan for dormitory or residency opportunities operated by an FCS institution or FCS institution direct-support organization (DSO).¹⁵ Such dormitory fees may not exceed the maximum fees charged for state university dormitories, or the fees charged for an FCS institution or FCS institution DSO, whichever is less.¹⁶

An FCS institution or DSO has limited authority to plan and construct facilities and acquire additional property.¹⁷ Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.¹⁸ However, Florida law authorizes that an FCS institution campus within a municipality designated as an area of critical state concern,¹⁹ which meets planning and development requirements, may construct dormitories for up to 300 beds for FCS institution students.²⁰

III. Effect of Proposed Changes:

The bill amends s. 1009.98, F.S., to authorize a state university to specify a qualified nonprofit organization that may receive prepaid dormitory residence plan fees. In addition, the bill authorizes that Florida College System (FCS) students may use dormitory residence plan fees to cover housing provided by a qualified nonprofit organization. The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue

¹³ Florida Prepaid, *Prepaid Plans FAQs, Dormitory Specific Questions*, <https://www.myfloridaprepaid.com/prepaid-plans/faqs/#what-residence-halls-are-covered> (last visited Mar. 12, 2019).

¹⁴ If there are no available units, the refund will equal the statewide average for eligible double-occupancy, air-conditioned dormitory rooms payable by the Prepaid Plan in the State of Florida. If the student lives off-campus or in privately held housing, then the refund is equal to payments made, less any fees, usage and other refunds. *Id.*

¹⁵ Section 1009.98(2)(d), F.S.

¹⁶ *Id.*

¹⁷ Section 1013.40, F.S.

¹⁸ Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

¹⁹ Section 380.05, F.S. The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources. The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

²⁰ Section 1013.40(4), F.S. Currently, only Florida Keys Community College meets this requirement and is able to construct such dormitory facilities.

Code²¹ that provides student living housing on or near the campus of a FCS institution or state university to full-time students of that institution.²²

The bill also specifies that the fees from a dormitory residence plan paid to a qualified nonprofit organization may not exceed the maximum fees charged for state university dormitory residences, or for fees charged for FCS institution or FCS institution direct-support organization dormitories or residency opportunities, whichever is less.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

²¹ To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. Organizations described in section 501(c)(3) are commonly referred to as charitable organizations. Internal Revenue Service, *Exemption Requirements - 501(c)(3) Organizations*, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited Mar. 12, 2019).

²² It is unclear if a qualified nonprofit organization that provides student housing must be approved by the Prepaid Board or by the Florida College System institution in order to receive Prepaid Program funds.

C. Government Sector Impact:

The bill has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.98 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.