

CHAPTER 8

(SB 130)

AN ACT relating to student financial assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.240 is amended to read as follows:

- (1) (a) As used in this section, the term "eligible borrower" *means* ~~shall mean~~ a student, *a former student, or* ~~and~~ the parent of a dependent student *or former student*, who demonstrates an intention and capacity to repay *an educational* ~~the~~ loan *and meets the loan criteria established by the promulgation of administrative regulations by the corporation.* ~~The student shall be a Kentucky resident enrolled or accepted for enrollment, on at least a half-time basis, at an eligible institution, making satisfactory progress toward completion of a program leading to a certificate, degree or diploma other than theology, divinity, or religious education.~~
- (b) *Notwithstanding KRS 164A.020, with respect to any educational loan made or financed under this section, and any bonds or notes of the corporation to finance educational loans under this section, as used in KRS 164A.010 to 164A.240, the term:*
 1. *"Eligible institution" shall be deemed to include any educational institution approved by the corporation;*
 2. *"Eligible lender" shall be deemed to include any financial institution approved by the corporation; and*
 3. *"Insured student loan" or "student loan" shall be deemed to include any educational loan.*
- (2) (a) In addition to the authority granted by KRS 164A.010 to ~~164A.240~~ ~~164A.230~~, the corporation is authorized to:
 1. Establish, finance, and operate ~~such~~ educational loan programs *deemed necessary by* ~~as~~ the *Kentucky* Higher Education Assistance Authority ~~shall deem necessary in order~~ to make *or cause to be made* ~~available additional~~ educational loans ~~, which shall not be insured student loans as that term is defined by KRS 164A.020~~ to meet the financial needs of eligible borrowers; *and*
 2. *Exercise any of its powers with respect to educational loans pursuant to KRS 164A.010 to KRS 164A.240.*
- (b) The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders, and eligible institutions. The educational loan programs may provide for either the making of educational loans ~~directly~~ to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.
- (3) The corporation may promulgate *administrative* ~~necessary rules and~~ regulations ~~as shall be required~~ to *implement the provisions of KRS 164A.010 to 164A.240* ~~administer any such program on a financially sound basis, including the requiring of guarantees, cosigning~~

by parents or guardians, nongovernmental loan insurance if available, collateral pledges and other security provisions deemed requisite in the circumstances].

- (4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to ~~164A.240~~[164A.230], **except that KRS 164A.080(3) shall not apply to any loans and KRS 164A.160 shall not apply to any bonds or notes issued to fund loans authorized in this section. The** ~~provided that the~~ proceeds of the bonds **or notes** ~~may be~~ used for the educational loan programs **may** ~~and shall not~~ be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.
- (5) **The corporation may establish reserve funds or replacement funds in connection with the issuance of bonds and notes for educational loan purposes as determined to be necessary by the board to enable the corporation to accomplish its proper public purposes** ~~[No bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education. In making the determination of need the Governor and Legislative Research Commission shall consider the availability of other student assistance resources].~~
- (6) (a) The maximum annual loan amount shall not exceed:
1. The costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution;
 2. **The repayment amount of loans to fund the borrower's cost;**~~[-]~~ or
 3. A lesser amount established by the board.
- (b) The loan proceeds shall be used by the eligible borrower solely for **these purposes** ~~[those costs of attendance].~~
- (7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.
- (8) The **Kentucky** Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.
- (9) **A person under the age of eighteen (18) years shall be deemed to have full capacity to act and shall have all rights, powers, privileges, and obligations of a person of full age for the purpose of applying for, receiving, and repaying educational loans authorized pursuant to this section. Notwithstanding any other statute to the contrary, a repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the educational loan.**
- (10) **The corporation shall establish the interest rates and other terms and conditions for educational loans in a manner that it determines is financially sound. No provision of any other law of the Commonwealth of Kentucky that limits the rate or amount of interest payable on a loan shall apply to an educational loan authorized by this section.**
- (11) **A loan made pursuant to this section shall be governed by Kentucky law.**

(12) KRS 164.772, KRS 164.774, and KRS 131.565 are applicable to loans made pursuant to this section.

Section 2. KRS 164A.160 is amended to read as follows:

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for student loan purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the board of directors of the corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the corporation in connection with any such ~~bonds~~~~[bond-issue]~~ or *notes issued pursuant to a general bond resolution adopted prior to January 1, 2003,~~[note-issue]~~ should, in violation of any contract made by the corporation with any bondholder or noteholder, be monetarily deficient in any respect as of any date of accounting so stipulated by the corporation, the corporation shall immediately make formal request in writing to the secretary of the Finance and Administration Cabinet, and to the Governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the General Assembly of an appropriated legislative appropriation by the General Assembly to the corporation for the use and benefit of such reserve fund or replacement fund be submitted to such session of the General Assembly. In the event the next scheduled even-numbered-year regular session of the General Assembly of Kentucky shall occur more than six (6) months after any such request by the corporation, the corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be made available from the Governor's contingency fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.*

Approved March 7, 2003