

CHAPTER 180**(SB 17)**

AN ACT relating to reorganization.

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

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to **164.7891**~~[164.785]~~, the terms listed below shall have the following meanings:

- (1) "Authority" means the Kentucky Higher Education Assistance Authority.
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.
- (3) "Business school" means any business school which is accredited by the **Accrediting Commission for Independent Colleges and Schools**~~[Association of Independent Colleges and Schools, the commission for business schools,]~~ or any successor **recognized by the United States Department of Education**, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- (4) "College" means **an institution governed by the board of regents of the Kentucky Community and Technical College system** or any postsecondary educational institution of higher learning which is accredited by **a**~~[the Southern Association of Colleges and Schools, the commission on colleges, or any successor, or other equivalent]~~ regional accrediting association **recognized by the United States Department of Education**, and which provides a program of study leading to the granting of a postsecondary degree,~~[or]~~ diploma, **or certificate**.
- (5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.
- (6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.
- (7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.
- (8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.
- (9) "Federal Act" means the Higher Education Act of 1965, Pub. L. 89-329, as amended.
- (10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

- (11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.
- (12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.
- (13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.
- (14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.
- (15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.
- (16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.
- (17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.
- (18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.
- (19) ***"Regional accrediting association" means the Middle States Association of Colleges and Schools, Commission on Higher Education; New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, Higher Learning Commission; Northwest Association of Schools and Colleges, Commission on Colleges; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.***
- (20) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.
- (21)~~(20)~~ "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- (22)~~(21)~~ "Secretary" means the United States Secretary of Education.
- (23)~~(22)~~ "Vocational school" means ~~any public vocational school, technical institution, or technology center which is managed and controlled by the board of regents for the Kentucky~~

~~Community and Technical System and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or~~ a vocational technical school accredited by the *Accrediting Commission for Career Schools and Colleges of Technology or the National Council for Workforce Education, or any successor recognized by the United States Department of Education*~~{national association of trade and technical schools, or any successor}~~, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

~~(24)~~~~(23)~~ "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 2. KRS 164.785 is amended to read as follows:

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:
 - (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;
 - (b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by *a regional accrediting association recognized by the United States Department of Education*~~{the Southern Association of Colleges and Schools}~~ and whose institutional programs are not *composed*~~{comprised}~~ solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph;
 - (c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and
 - (d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.
- (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.
- (4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
- (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 3. KRS 164.753 is amended to read as follows:

- (1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:
 - (a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;
 - (b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and
 - (c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.
- (2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution~~], except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act].~~
- (3) In the instance of scholarships, *except scholarships provided pursuant to KRS 164.518*, the rules and regulations adopted by the board shall include, but not be limited to, those which:
 - (a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;
 - (b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;
 - (c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;
 - (d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and
 - (f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.
- (4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:

- (a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;
 - (b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity, or religious education;
 - (c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and
 - (e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.
- (5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.
- (6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:
- (a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;
 - (b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and
 - (c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 4. KRS 164.7891 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.
- (2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.
- (3) The authority may award scholarships to students who meet the following criteria:
 - (a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
 - (b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy

Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

- (c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and
 - (d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.
- (4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:
- (a) The average of the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine; and
 - (b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.
- (5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the ***sum of all outstanding promissory notes and accrued interest*** ~~amount of the scholarship awarded~~.
- (6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures *or the terms of promissory notes* for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, *the rate of repayment and deferment of repayment* of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.
- (b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.
- (c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.
- (d) *All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.*
- (12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.
- (13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.

Section 5. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The trust shall exercise ownership of all contributions made under any participation agreement and all interest derived from the investment of the contributions made by the participant up to the date of utilization for payment of higher education costs for the beneficiary. All contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee. In the event the participation agreement is terminated in part, the trust shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and not returned to the participant. The participant shall retain a reversionary right to receive upon termination the actual market value of the participant's account at the time of the cancellation, including interest, except that the participant *may*~~shall~~ be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;
- (3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth postsecondary education prepaid tuition trust fund established in KRS 164A.701, and in compliance with administrative regulations promulgated by the board for the savings plan trust;~~;~~
- (4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant *may*~~shall~~ be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;
- (5) The institution of higher education shall obtain ownership of the distributions made from the participant's account for the higher education costs paid to the institution at the time each payment is made to the institution;
- (6) Any amounts received by the trust pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section shall be owned by the trust;
- (7) A participant may transfer the participant's rights to another eligible participant, including, but not limited to, a gift of the participant's rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be *effected*~~affected~~ and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- (8) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest,

devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and

- (9) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 6. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305(6){(7)} or refunded under KRS 164A.350(8){(7)}(a) or ~~164A.350(7)}(b)~~ shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(7) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(8){(7)}(a) *or* ~~and 164A.350(7)}(b)~~.

Section 7. KRS 164.748 is amended to read as follows:

The board shall have the following powers, functions, and duties:

- (1) To provide loan guarantees, upon terms and conditions the board may prescribe within the limitations provided by KRS 164.740 to 164.770, and the federal act in respect of loans to eligible borrowers. The board may require additional security, including endorsers it deems necessary and desirable and is not in contravention of the federal act. The purpose of the loans shall be to assist individuals in meeting the expense of their education.
- (2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify insured student loans for interest payments, reimbursement, reinsurance, and other benefits available under the federal act to the authority.
- (3) To issue loan guarantees in respect of loans made to eligible borrowers by participating lenders, including the authority. No eligible borrower shall obtain an insured student loan from more than one (1) participating lender without prior approval by the board. No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan resulting shall be the subject of agreements pursuant to the federal act by which the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.
- (4) To promulgate administrative regulations pursuant to KRS Chapter 13A pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 to 164.785.
- (5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon terms and conditions agreed upon between the authority and the eligible lender, to provide

for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

- (6) To enter into contracts with eligible institutions, upon terms and conditions agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.
- (7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend them, on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, absolutely or in trust, and to hold, administer, and dispose of it, on behalf of the authority and for any of its purposes. The authority shall not make its debts payable out of any funds except those of the authority.
- (8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, administrative costs, and related matters.
- (9) To sue and be sued in the name of the authority and to plead and be impleaded, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service.
- (10) To collect from individual borrowers loans made by the authority and insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect the insured student loans.
- (11) To gather information on all loans, scholarships, honorary scholarships, grants, and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate the information through the methods of mass communication necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.
- (12) To request reports from each eligible institution or eligible lender necessary for the effective performance of its duties and to publish the information it deems necessary.
- (13) To approve, disapprove, limit, suspend, or terminate the participation of, or take emergency action to withhold authority funds and insured student loans from eligible institutions or eligible lenders in programs administered by the board, subject to the provisions of the federal act and this chapter.
- (14) To perform other acts necessary or appropriate to carry out effectively the purposes of the authority as provided by KRS 164.740 to ~~164.785~~ **164.7891** and KRS 164A.010 to 164A.380.
- (15) If any conflict exists between KRS 164.740 to 164.770 and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act, including interest payments and reimbursement for insured student loans in default, to promulgate regulations and policies consistent with the federal act not in derogation of the Constitution and general laws of the Commonwealth.
- (16) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source *in furtherance of any*~~for~~

purposes of *the authority related to* ~~[verifying information submitted by any student and any student's parents, or others in loco parentis, in applying for or receiving assistance from]~~ any program *or function* administered by the authority.

- (17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services necessary to the administration of the authority's insured student loan programs.
- (18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation as required pursuant to KRS Chapter 164A.
- (19) To conduct, in accordance with KRS Chapter 13B, administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans guaranteed by the authority. Wage garnishment hearings and administrative review procedures pertaining to disputes concerning setoff of federal tax refunds shall be exempt under KRS 13B.020 and shall be conducted in accordance with applicable federal law. In an exempt hearing, the board or a hearing officer designated by the board may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to the issues in dispute. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.
- (20) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state-administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.
- (21) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

Section 8. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

- (8) "Eligible high school student" means any person who:
- (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school *for* at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; *or*
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; *and*
 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
- (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, *except for students who meet the criteria of subsection (8)(b)2. of this section*, in an academic year as determined *in accordance with an*~~by~~ administrative regulation promulgated by the council;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
- (a) 1. Is publicly operated; or
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs~~and provides annual documentation to the authority of compliance~~;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 9. KRS 164.746 is amended to read as follows:

- (1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.
 - (a) *Subject to paragraph (b) of this subsection, voting members of the board shall consist of:*
 1. Seven (7)~~voting~~ members who shall be appointed *from the general public residing in the Commonwealth of Kentucky* by the Governor *from nominees submitted by the Governor's Postsecondary Education Nominating Committee under KRS 164.005; and*

2. *Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to subsection (3)(a)1. of Section 10 of this Act, who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors.*
- (b) *Upon resignation or expiration of the term of an appointed member of the board of the authority or the Kentucky Higher Education Student Loan Corporation, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the authority and the Kentucky Higher Education Student Loan Corporation to ten (10) members.*
- (c) In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, *the commissioner of education*, and the secretary of the ~~Cabinet of~~ Finance and Administration *Cabinet, or their designees who shall be another official of the same cabinet or agency*, shall serve as voting ex officio members.
- (d) The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and, *except as provided in paragraph (b) of this subsection, shall serve* until his successor is appointed.
- (2) *Subject to paragraph (b) of subsection (1) of this section*, appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.
- (3) The board shall elect from its voting membership a *chair, chair-elect, and secretary-treasurer*~~chairman and chairman-elect~~ who shall each serve for a term of one (1) year. At the conclusion of the *chair's*~~chairman's~~ term of office, the *chair-elect*~~chairman-elect~~ shall become *the chair*~~chairman~~ for the succeeding year and the board shall elect from its voting membership a new *chair-elect*~~chairman-elect~~.
- (4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars (\$100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.
- (5) The board shall provide for the holding of regular meetings and special meetings.
- (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the *chair*~~chairman~~ in accordance with KRS 61.823, and either the *chair or the chair-elect*~~chairman or the chairman-elect~~ shall be present for the transaction of any business.
- (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not

inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

- (7) The board may:
- (a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and
 - (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.
- (8) The Office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.

Section 10. KRS 164A.050 is amended to read as follows:

- (1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.
- (2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.
- (3)
 - (a) ***Subject to paragraph (b) of this subsection***, the corporation shall be governed by a board of directors consisting of: ~~eleven (11) members,~~
 - 1. Eight (8) ***voting members***~~[of whom shall be]~~ chosen from the general public residing in the Commonwealth of Kentucky; ***and***
 - 2. ***Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to subsection (1)(a)1. of Section 9 of this Act, who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors.***
 - (b) ***Upon resignation or expiration of the term of an appointed member of the board of the corporation and the Kentucky Higher Education Assistance Authority, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members.***
 - (c) ***In addition, the president***~~[and three (3) of whom shall be the chairman]~~ of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, ***the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members***~~[and the chairman of the Kentucky Higher Education Assistance Authority]~~.

- (4) The Governor shall appoint ~~the eight (8)~~ directors **according to subsection (3)(a)1. of this section** from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and, **except as provided in subsection (3)(b) of this section, shall serve** until a successor has been appointed and has duly qualified.
- (5) **Except as provided in subsection (3)(b) of this section**, in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.
- (6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.
- (7) The board shall elect from its voting membership a **chair, chair-elect, and secretary-treasurer** ~~chairman, secretary, and treasurer~~. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.
- (8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The **secretary-treasurer** ~~secretary~~ of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The **secretary-treasurer** ~~secretary~~ may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.
- (9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.
- (10) Official actions may be taken by the corporation at meetings duly called by the **chair** ~~chairman~~ upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (11) Directors, except officers or employees of the state, shall receive one hundred dollars (\$100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.
- (12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political

subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 11. The General Assembly confirms Executive Order 2002-849, dated July 18, 2002, and Executive order 2002-848, dated July 18, 2002, which relate to expansion of the Kentucky Higher Education Assistance Authority's board of directors and the Kentucky Higher Education Student Loan Corporation's board of directors, respectively, to the extent the orders are not otherwise confirmed or superseded by this Act. On making appointments to the boards of directors of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation, the Governor shall, to the extent reasonably possible, ensure that the appointee shall have experience in the fields of education, business, or financial matters that would be relevant to the functions of the organizations; and that appointments reflect the racial, gender, political, and geographical diversity and composition of the Commonwealth.

Section 12. The following KRS section is repealed:

164.7893 Requirements for educational institutions for students to receive student financial assistance.

Approved March 31, 2003