

CHAPTER 176**(HB 36)**

AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

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

➔Section 1. KRS 164A.040 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that as a result of the adoption of the education amendments of 1976 by the Congress of the United States, being Public Law 94-482, it is essential, in order that the Commonwealth of Kentucky may continue to provide adequate educational opportunities to all of its citizens and residents, that the corporation be created and empowered to finance student loan operations in Kentucky by the issuance of its bonds and notes for the purpose of making and purchasing ~~insured~~ student loans.
- (2) The General Assembly hereby finds and declares further that in the performance of its duties, powers and responsibilities, the corporation will be performing essential public and governmental functions and shall be and constitute an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky for the purpose of promoting higher educational opportunities through a program of financing, making and purchasing of ~~insured~~ student loans.

➔Section 2. 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:
 1. Eight (8) voting members 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 KRS 164.746(1)(a)1., 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 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.
- (4) The Governor shall appoint 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. 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 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 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 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) Recognizing that the corporation and the Kentucky Higher Education Assistance Authority are governed by identical boards of directors and managed by a common executive director and otherwise share staff functions, the two (2) organizations shall provide technical, clerical, and administrative assistance to each other and for the Asset Resolution Corporation, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund, together with necessary office space and personnel, and shall assist each other in all ways by the performance of any and all actions which may be useful or beneficial in the performance of their public functions.
- (13) The corporation shall enter into contracts with the Kentucky Higher Education Assistance Authority, the Asset Resolution Corporation, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as may be proper and appropriate in respect to services which may include but not be limited to the servicing and collection of ~~off-insured~~ student loans or to facilitate the common administration, operation, and management of the contracting entities.

➔Section 3. KRS 164A.060 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

- (1) To make or participate in the making of ~~off-insured~~ student loans.
- (2) To purchase or participate in the purchase of ~~off-insured~~ student loans, which purchase may be from eligible lenders.
- (3) To sell or participate in the sale of ~~off-insured~~ student loans, which sale may be to eligible lenders or to the student loan marketing association.
- (4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced ~~off-insured~~ student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.

- (5) To procure insurance in respect of all student loans made or purchased by the corporation.
- (6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any ~~insured~~ student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.
- (7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and such other expenses as are necessary or incident to any such borrowing.
- (8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.
- (9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity and perform other acts necessary or appropriate to accomplish effectively the purposes of this chapter.
- (10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.
- (11) To sue and be sued in its own name and to plead and be impleaded.
- (12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.
- (13) To adopt an official seal and alter the same at pleasure.
- (14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.
- (15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.
- (16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.
- (17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.
- (18) To service and collect educational loans for other lenders, holders, and educational institutions.
- (19) 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 purposes of the corporation related to any program or function administered by the corporation.

Signed by Governor April 6, 2023.