

CHAPTER 5

(SB 81)

AN ACT relating to higher education finance and declaring an emergency.

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

➔Section 1. 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 *ten (10)*~~};~~
 1. ~~Seven (7)}~~ 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 KRS 164A.050(3)(a)1., 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.~~
 - (e) ~~{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 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.~~
 - (c)~~(d)~~ The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he *or she* is appointed and~~, except as provided in paragraph (b) of this subsection,}~~ shall serve until his *or her* 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 who shall each serve for a term of one (1) year. At the conclusion of the chair's term of office, the chair-elect shall become the chair for the succeeding year and the board shall elect from its voting membership a new chair-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 in accordance with KRS 61.823, and either the chair or the chair-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.

➔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 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. ~~—~~ **Ten (10)**~~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)~~[-]~~, 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]; and[-]~~
 - 2.~~(b)~~ **The secretary of the Finance and Administration Cabinet, or a designee who shall be another official of the same cabinet, who shall serve as an ex officio voting member**~~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].~~
- (b)~~(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 **nonvoting advisors to the board**~~voting members].~~
- (4) The Governor shall appoint directors according to subsection (3)(a)1. of this section from nominees submitted by the Governor's **Postsecondary**~~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 **Postsecondary**~~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 ~~on~~~~[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 *the same board members appointed by the Governor*~~[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 student loans or to facilitate the common administration, operation, and management of the contracting entities.

➔Section 3. KRS 164A.055 is amended to read as follows:

- (1) As used in this section:
 - (a) "Board" means the board of directors of the Asset Resolution Corporation; and
 - (b) "Corporation" means the Asset Resolution Corporation created in this section.
- (2) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth to be known as Asset Resolution Corporation for the purpose of promoting higher educational opportunities for the citizens of the Commonwealth by providing debt resolution services for student loan obligations and any other student *loan or student* service- or education-related activity to the extent such activity is not limited or prohibited by statute or other governing authority.
- (3) The corporation ~~[shall be attached to the Kentucky Higher Education Student Loan Corporation for administrative and reporting purposes and]~~ shall be governed, managed, and administered as a separate and distinct instrumentality of the Commonwealth in accordance with this section.
- (4) ~~[The Kentucky Higher Education Student Loan Corporation and its facilities shall be used and employed in the administration of the corporation, including but not limited to the keeping of records and the employment of staff to assist in the performance of the designated activities of the corporation.]~~
- (5) ~~]~~The board shall have the power and authority to:
 - (a) Sue and be sued;
 - (b) Promulgate administrative regulations and adopt procedures to implement this section;
 - (c) Make and enter into contracts necessary for the administration of the corporation;

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- (d) Adopt a corporate seal and change and amend it from time to time;
- (e) Make, execute, and effectuate any and all agreements or other documents with the United States Department of Education, this Commonwealth, any federal or state agency, or any person, corporation, association, partnership, or other organization or entity and perform other acts necessary or appropriate for the effectuation of its rights and duties pursuant to this section;
- (f) ~~{Delegate to the Kentucky Higher Education Student Loan Corporation general supervision and direction over the administrative function of the corporation and its employees in carrying out the policies, programs, administrative regulations, and directives of the board;~~
- ~~(g)~~ Carry out the duties and obligations of the corporation pursuant to this section, and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the corporation;
- ~~(g){(h)}~~ Adopt bylaws for the conduct of its business, including the designation of directors, and prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- ~~(h){(i)}~~ Employ consultants, attorneys, counselors, and such employees as may be required in the judgment of the corporation and to fix and pay their compensation and benefits;
- ~~(i){(j)}~~ Provide any service to schools or students related to student education loans, including but not limited to the areas of financial awareness, counseling, default aversion or prevention, servicing, and collecting; and
- ~~(j){(k)}~~ Provide support services for postsecondary education and workforce development training and programs to students, families, schools, and training centers.
- ~~(5){(6)}~~ 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 for attendance at each board meeting and shall be entitled to payment of any reasonable and necessary expenses actually incurred in discharging their duties under this section.

➔Section 4. Whereas maintaining efficient management of the state's financial aid activities is a critical financial issue for the state, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 14, 2024.