

**164A.240 "Eligible borrower" defined -- Additional student loans permitted -- Garnishment -- Administrative regulations -- Bonds to finance loans -- Maximum annual loan amount.**

- (1) (a) As used in this section, the term "eligible borrower" means a student, a former student, or the parent of a dependent student or former student, who demonstrates an intention and capacity to repay an educational loan and meets the loan criteria established by the promulgation of administrative regulations by the corporation.
  - (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. "Disposable pay" means the amount remaining of a borrower's employment earnings after the deduction of all amounts withheld as required by law;
    2. "Eligible institution" shall be deemed to include any educational institution approved by the corporation;
    3. "Eligible lender" shall be deemed to include any financial institution approved by the corporation; and
    4. "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, the corporation is authorized to:
  1. Establish, finance, and operate educational loan programs deemed necessary by the Kentucky Higher Education Assistance Authority to make or cause to be made educational loans to meet the financial needs of eligible borrowers;
  2. Exercise any of its powers with respect to educational loans pursuant to KRS 164A.010 to KRS 164A.240; and
  3. Establish an administrative garnishment process for the collection of defaulted educational loans and promulgate regulations pursuant to KRS Chapter 13A pertaining to the process. The process shall begin no sooner than one hundred eighty (180) days after the borrower fails to make payments on the debt that has been due and owing. The process shall limit garnishment to no more than ten percent (10%) of the disposable pay of the defaulted borrower and ensure that the borrower's due process rights are protected.
- (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 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 regulations to implement the provisions of KRS 164A.010 to 164A.240.
- (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, 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 proceeds of the bonds or notes used for the educational loan programs may 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.
- (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.
- (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 164.774 and 131.565 are applicable to loans made pursuant to this section.

**Effective:** June 27, 2019

**History:** Amended 2019 Ky. Acts ch. 6, sec. 4, effective June 27, 2019. -- Amended 2013 Ky. Acts ch. 28, sec. 1, effective June 25, 2013. -- Amended 2003 Ky. Acts ch.

8, sec. 1, effective June 24, 2003; and ch. 115, sec. 5, effective June 24, 2003. -- Repealed, reenacted, and amended as KRS 164A.240, 1988 Ky. Acts ch. 35, sec. 1, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 403, sec. 8, effective July 15, 1982.

**Formerly codified as KRS 164.755.**