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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 2164** Session of  
1982

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INTRODUCED BY MAIALE AND CESSAR, JANUARY 19, 1982

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REFERRED TO COMMITTEE ON EDUCATION, JANUARY 19, 1982

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AN ACT

1 Amending the act of August 7, 1963 (P.L.549, No.290), entitled,  
2 as amended, "An act creating the Pennsylvania Higher  
3 Education Assistance Agency; defining its powers and duties;  
4 conferring powers and imposing duties on the Governor,  
5 President Pro Tempore of the Senate, Speaker of the House of  
6 Representatives, Superintendent of Public Instruction and the  
7 Department of Auditor General; and making appropriations,"  
8 authorizing the creation of student loan corporations,  
9 further providing for the powers of the agency, authorizing  
10 the agency to issue evidences of indebtedness, providing  
11 remedies for holders of evidences of indebtedness, further  
12 providing for eligibility for loan assistance, further  
13 providing for the capacity of minors, providing for the  
14 making and servicing of loans to student loan corporations,  
15 approved institutions of higher learning and lending  
16 institutions, further providing for tax exemptions and  
17 investments and making editorial changes.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The title, act of August 7, 1963 (P.L.549,  
21 No.290), referred to as the Pennsylvania Higher Education  
22 Assistance Agency Act, amended October 29, 1969 (P.L.283,  
23 No.116), is amended to read:

24 AN ACT

25 Creating the Pennsylvania Higher Education Assistance Agency;

1 defining its powers and duties; authorizing the agency to  
2 issue notes, bonds or other evidences of indebtedness;  
3 conferring powers and imposing duties on the Governor,  
4 President Pro Tempore of the Senate, Speaker of the House of  
5 Representatives, [Superintendent of Public Instruction]  
6 Secretary of Education and the Department of Auditor General;  
7 and making appropriations.

8 Section 2. Section 2 of the act, amended January 18, 1968  
9 (1967 P.L.952, No.424), is amended to read:

10 Section 2. [Purpose.--The] Purposes.--(a) A purpose of such  
11 agency shall be to improve the higher educational opportunities  
12 of persons who are residents of this State and who are attending  
13 or plan to attend approved institutions of higher education, in  
14 this State or elsewhere, by guaranteeing loans made to such  
15 persons to assist them in meeting their expenses of higher  
16 education in accordance with the provisions of this act.

17 (b) Another purpose of such agency shall be to improve the  
18 educational opportunities of persons who are residents of this  
19 State who are attending or planning to attend approved  
20 institutions of higher learning in this State by making,  
21 servicing or otherwise providing loans to student loan  
22 corporations, approved institutions of higher learning and  
23 lending institutions to provide low cost financial assistance to  
24 students or their parents.

25 Section 3. Section 2.1 of the act, added July 12, 1981  
26 (P.L.264, No.89), is amended to read:

27 Section 2.1. Definitions.--The following words and phrases  
28 when used in this act shall have, unless the context clearly  
29 indicates otherwise, the meanings given to them in this section:

30 "Lending institution." Any bank, savings and loan

1 association or other such institution as the board may designate  
2 doing business in the State.

3 "Residents of this State." The term shall include, but not  
4 be limited to:

5 (1) A student applicant who is under eighteen years of age  
6 at the time of application for a loan or a loan guaranty and who  
7 has a supporting parent or guardian who has been a domiciliary  
8 of this Commonwealth for at least thirty days immediately  
9 preceding the date of receipt by the agency of the application  
10 for such loan or loan guaranty.

11 (2) A student applicant who is eighteen years of age or  
12 older at the time of application for a loan or loan guaranty and  
13 has been a domiciliary of the Commonwealth for at least thirty  
14 days immediately preceding the date of receipt by the agency of  
15 the application for such loan or loan guaranty.

16 (3) A student applicant who is accepted for enrollment in or  
17 is attending an approved institution of postsecondary education  
18 in this Commonwealth.

19 (4) A parent who is a domiciliary of this Commonwealth or a  
20 parent of a student if such student has been accepted for  
21 enrollment in or is attending an approved institution of  
22 postsecondary education in this Commonwealth.

23 "Student loan corporation." A domestic nonprofit corporation  
24 existing under the laws of the Commonwealth formed by an  
25 approved institution of higher learning for the purpose of  
26 providing low interest loans to residents of this State.

27 Section 4. Subsection (a) of section 3 of the act, amended  
28 January 18, 1968 (1967 P.L.952, No.424), is amended to read:

29 Section 3. Governing Bodies.--(a) Such agency shall be  
30 governed and all of its corporate powers exercised by a board of

1 directors which shall consist of twenty members, nineteen of  
2 whom shall be appointed as hereinafter provided, and the  
3 [Superintendent of Public Instruction] Secretary of Education.  
4 Three members shall be appointed by the Governor, eight shall be  
5 appointed by the President Pro Tempore of the Senate, and eight  
6 shall be appointed by the Speaker of the House of  
7 Representatives. All members shall be of full age, citizens of  
8 the United States and residents of the State, and shall be  
9 appointed for terms of six years each, except that of the  
10 members first appointed by the Governor, one shall be appointed  
11 for a term which shall expire on June 30, 1965, one for a term  
12 which shall expire on June 30, 1967, and one for a term which  
13 shall expire on June 30, 1969, and of the members first  
14 appointed by the President Pro Tempore of the Senate, one shall  
15 be appointed for a term which shall expire on June 30, 1965, one  
16 for a term which shall expire on June 30, 1967, and one for a  
17 term which shall expire on June 30, 1969, and of the members  
18 first appointed by the Speaker of the House of Representatives,  
19 one shall be appointed for a term which shall expire on June 30,  
20 1965, one for a term which shall expire on June 30, 1967, and  
21 one for a term which shall expire on June 30, 1969; and of the  
22 five additional members to be appointed by the President Pro  
23 Tempore of the Senate under this amendment, one shall be  
24 appointed for a term which shall expire on June 30, 1969, two  
25 for a term which shall expire on June 30, 1971, one for a term  
26 which shall expire on June 30, 1973 and one for a term which  
27 shall expire on June 30, 1975, and of the five additional  
28 members to be appointed by the Speaker of the House of  
29 Representatives under this amendment, one shall be appointed for  
30 a term which shall expire on June 30, 1969, two for a term which

1 shall expire on June 30, 1971, one for a term which shall expire  
2 on June 30, 1973 and one for a term which shall expire on June  
3 30, 1975. The eight members appointed by the President Pro  
4 Tempore of the Senate shall be members of the Senate, four of  
5 whom shall be of the majority party and four of the minority  
6 party, and the eight members appointed by the Speaker of the  
7 House of Representatives shall be members of the House of  
8 Representatives, four of whom shall be of the majority party and  
9 four of the minority party, and any member of the Senate or  
10 House of Representatives hereafter appointed shall serve on the  
11 board only so long as he is a member of the particular body of  
12 the General Assembly from which he was appointed to the board,  
13 in which event he shall be ineligible to continue as a member of  
14 the board as a legislative appointee and a vacancy shall exist.  
15 In such a case the President Pro Tempore of the Senate or the  
16 Speaker of the House of Representatives shall fill the vacancy  
17 for the unexpired term in the same manner as original  
18 appointments. A member of the board of directors who becomes  
19 ineligible to serve as a legislative appointee shall be eligible  
20 for appointment by the Governor. The board of directors shall  
21 elect from its own members each year a chairman and vice  
22 chairman who shall serve for terms of one year and who shall be  
23 eligible for reelection for successive terms. Vacancies shall be  
24 filled for the unexpired terms in the same manner as original  
25 appointments. Directors shall receive no compensation for their  
26 services, but shall be reimbursed for their expenses actually  
27 and necessarily incurred by them in the performance of their  
28 duties under this act.

29 \* \* \*

30 Section 5. Clauses (4), (10) and (11) of section 4 of the

1 act, clause (4) amended January 18, 1968 (1967 P.L.952, No.424)  
2 and clauses (10) and (11) added December 21, 1977 (P.L.338,  
3 No.99), are amended and clauses are added to read:

4 Section 4. Powers and Duties.--In furtherance of the  
5 purposes set forth in this act, the board of directors shall  
6 have the following powers:

7 \* \* \*

8 (4) To enter into contracts with student loan corporations,  
9 approved institutions of higher education, lending institutions  
10 or any appropriate governmental agency upon such terms as may be  
11 agreed upon between the board and any such corporation, higher  
12 education institution, lending institution or agency, to provide  
13 for the administration by such corporations, higher education  
14 institutions, lending institutions or agencies of any loan or  
15 guarantee of a loan made by or arising from a loan made by the  
16 agency including applications therefor and repayment thereof.

17 (4.1) To make loans to student loan corporations, lending  
18 institutions or to approved institutions of higher learning.  
19 Such loans shall be made upon such terms and conditions as the  
20 board may prescribe within the limitations contained herein, at  
21 such rates of interest as are determined by the agency, for the  
22 purpose of assisting residents of this State who plan to attend  
23 or are attending any approved institution of higher learning in  
24 this State or their parents in meeting their expenses of higher  
25 learning.

26 (4.2) To borrow money and to issue notes, bonds or other  
27 evidences of indebtedness created thereby subject to the  
28 provisions of section 4.3. The agency, however, shall have no  
29 power at any time to pledge the credit or taxing power of the  
30 Commonwealth or any of its municipalities or political

1 subdivisions, nor shall any of its obligations be deemed to be  
2 obligations of the Commonwealth or any of its political  
3 subdivisions.

4 (4.3) To pay all costs, fees and charges incurred by student  
5 loan corporations, lending institutions or approved institutions  
6 of higher learning incurred in connection with the making and  
7 servicing of loans and performing other functions on behalf of  
8 the agency.

9 \* \* \*

10 (10) To establish an investigation unit which shall have the  
11 power and duty to:

12 (i) investigate alleged violations of all criminal statutes  
13 related to fraud or a breach of fiduciary obligation committed  
14 by any student loan corporation, lending institution, approved  
15 institution of higher learning or person who has obtained or  
16 attempted to obtain, or aids, assists, or abets in obtaining or  
17 attempting to obtain, scholarship awards, educational assistance  
18 grants, loans or loan guarantees or other moneys from the  
19 agency; and

20 (ii) work in conjunction with the appropriate prosecuting  
21 authorities in the prosecution of cases where it is determined  
22 that evidence of criminal activity exists. In the enforcement of  
23 criminal statutes related to fraud or a breach of fiduciary  
24 obligation under this clause, the staff of the investigation  
25 unit shall have the powers of law enforcement officers.

26 (11) To execute by writ of execution upon wages, salaries or  
27 commissions in the hands of an employer or any other person in  
28 order to enforce money judgments for the repayment of loans  
29 authorized, serviced, made or guaranteed under this act[:  
30 Provided, however, That such]. Such power of execution may [not]

1 be assigned to [any other person or agency nor be employed for  
2 any other purpose by the agency] a student loan corporation,  
3 lending institution or an approved institution of higher  
4 learning. Such power of execution may be exercised at the  
5 discretion of the agency, student loan corporation, lending  
6 institution or approved institution of higher learning, but  
7 under no circumstances may an amount in excess of ten percent of  
8 the pay of an obligor be subject to execution during any given  
9 pay period.

10 Section 6. Subsection (a) of section 4.1 of the act, added  
11 October 29, 1969 (P.L.283, No.116), is amended to read:

12 Section 4.1. Ineligibility for Loan Assistance.--(a) The  
13 agency, a student loan corporation, a lending institution and an  
14 approved institution of higher learning may deny all forms of  
15 financial assistance, including loans, to any student:

16 (1) Who is convicted by any court of record of a criminal  
17 offense which was committed after the effective date of this act  
18 which, under the laws of the United States or Pennsylvania,  
19 would constitute a misdemeanor involving moral turpitude or a  
20 felony; or

21 (2) Who has been expelled, dismissed or denied enrollment by  
22 an approved institution of higher learning for refusal to obey,  
23 after the effective date of this act, a lawful regulation or  
24 order of any institution of higher education, which refusal, in  
25 the opinion of the institution, contributed to a disruption of  
26 the activities, administration or classes of such institution;  
27 or

28 (3) Who has been convicted in any court or record of any  
29 offense committed in the course of disturbing, interfering with  
30 or preventing, or in an attempt to disturb, interfere with or

1 prevent the orderly conduct of the activities, administration or  
2 classes of an institution of higher education.

3 \* \* \*

4 Section 7. Section 4.2 of the act, added November 26, 1978  
5 (P.L.1291, No.308), is amended to read:

6 Section 4.2. Loans to State Employees.--Any person who has  
7 received a loan or a loan [guaranteed] guarantee pursuant to  
8 this act and who at anytime becomes or is an employe of the  
9 Commonwealth or any of its agencies shall be deemed to have  
10 agreed as a condition of their employment with the Commonwealth  
11 to repay such loan. Any such employe who defaults on the  
12 repayment of such loan shall make immediate arrangements with  
13 the employing agency or loan guarantor to set up a revised loan  
14 repayment schedule with the employe either making direct  
15 payments to the lending institution, guarantor or its agent or  
16 making such payments through payroll deductions. Such employe  
17 shall thereupon be notified that if such employe thereafter  
18 defaults on the revised loan repayment schedule, such employe  
19 shall be deemed to have breached an essential condition of  
20 employment and shall be dismissed from Commonwealth service.

21 Section 8. The act is amended by adding sections to read:

22 Section 4.3. Eligibility Criteria.--Each approved  
23 institution of higher learning, lending institution or student  
24 loan corporation shall have the power to establish criteria for  
25 determining eligibility for loan assistance.

26 Section 4.4. Bonds.--(a) The agency shall have the power to  
27 issue bonds, notes and other evidences of indebtedness for the  
28 purpose of raising funds to make loans pursuant to the  
29 provisions of this act: Provided, however, That the principal  
30 interest and other charges thereon are payable solely and

1 exclusively from (i) reserves funded from the proceeds of the  
2 sale of such bonds, notes or other evidences of indebtedness;  
3 (ii) payments by students or parents to whom the agency, a  
4 student loan corporation, a lending institution or an approved  
5 institution of higher learning has extended a loan; (iii) other  
6 revenues of the entity to whom the agency has extended a loan or  
7 any third party insurers or guarantors; or (iv) any moneys  
8 derived from the refunding of such bonds.

9 (b) The bonds of the agency shall be authorized by  
10 resolution of the board of directors of the agency, shall be of  
11 such series, bear such date or dates, mature at such time or  
12 times, not exceeding twenty years from their respective date,  
13 bear interest at such rate or rates, payable at least  
14 semiannually, be in such denominations, be in such form, either  
15 coupon or fully registered without coupons, carry such  
16 registration, exchangeability and interchangeability privileges,  
17 be payable in medium of payment and at such place or places and  
18 be subject to such terms of redemption, with or without premium  
19 as such resolution or resolutions may provide. The bonds shall  
20 be signed by or shall bear the facsimile signature of such  
21 officers as the agency shall determine and coupon bonds shall  
22 have attached thereto interest coupons bearing the facsimile  
23 signature of the treasurer agency, all as may be prescribed in  
24 such resolution or resolutions. Any such bonds may be issued and  
25 delivered, notwithstanding that one or more of the officers  
26 signing such bonds or the treasurer whose facsimile signature  
27 shall be upon the coupon, shall have ceased to be such officer  
28 or officers at the time when such bonds shall actually be  
29 delivered. Said bonds may be sold at public or private sale for  
30 such price or prices as the agency shall determine. Pending the

1 preparation of the definitive bonds, interim receipts may be  
2 issued to the purchaser or purchasers of such bonds and may  
3 contain such terms and conditions as the agency may determine.  
4 Any bond reciting in substance that it has been issued by the  
5 agency to aid in the financing of higher education tuition  
6 expenses by qualified students to accomplish the public purposes  
7 of this act shall be conclusively deemed in proceedings  
8 involving the validity or enforceability of such bond or  
9 security therefor, to have been issued for such purpose.

10 (c) Any resolution or resolutions authorizing any bonds may  
11 contain provisions which shall be part of the contract with the  
12 holders thereof, as to (i) pledging the full faith and credit of  
13 the agency, student loan corporations, lending institutions and  
14 approved institutions of higher learning (but not of the  
15 Commonwealth or any political subdivision thereof) for such  
16 obligations; (ii) the terms and provisions of the bonds; (iii)  
17 limitations on the purposes to which the proceeds of the bonds  
18 then or thereafter to be issued may be applied; (iv) the setting  
19 aside of reserves or sinking funds and the regulation and  
20 disposition thereof; (v) limitations on the issuance of  
21 additional bonds; (vi) the terms and provisions of any indenture  
22 under which the same may be issued; and (vii) any other or  
23 additional agreements with the holders of the bonds.

24 (d) The agency may enter into any indentures or other  
25 agreements, with any bank or trust company, including any  
26 Federal agency and may assign and pledge all or any of the  
27 receipts from the repayment of loans made pursuant to this act.  
28 Such indenture or other agreement may contain such provisions as  
29 may be customary in such instruments or as the agency may  
30 authorize, including (but without limitation) provisions as to

1 (i) the application of funds and the safeguarding of funds on  
2 hand or on deposit; and (ii) the rights and remedies of the  
3 trustee and the holders of the bonds (which may include  
4 restrictions upon the individual right of action of such  
5 bondholders); and (iii) the terms and provisions of the bonds or  
6 the resolutions authorizing the issuance of the same.

7 (e) Said bonds shall have all the qualities of negotiable  
8 instruments under the law merchant and the Uniform Commercial  
9 Code of the Commonwealth of Pennsylvania.

10 (f) The rights and remedies herein conferred upon or granted  
11 to the bondholders, shall be in addition to and not in  
12 limitation of any rights and remedies lawfully granted to such  
13 bondholders by the resolution or resolutions providing for the  
14 issuance of bonds or by any indenture or other agreement under  
15 which the same may be issued. In the event that the agency shall  
16 default in the payment of principal of or interest on any of the  
17 bonds after the said principal or interest shall become due,  
18 whether at maturity or upon call for redemption or in the event  
19 that the agency shall fail or refuse to comply with the  
20 provisions of this act or shall default in any agreement made  
21 with the holders of the bonds, the holders of twenty-five  
22 percent in aggregate principal amount of the bonds then  
23 outstanding, by instrument or instruments filed in the office of  
24 the Recorder of Deeds of Dauphin County and proved or  
25 acknowledge in the same manner as a deed to be recorded, may  
26 appoint a trustee to represent the bondholders for the purpose  
27 herein provided. Such trustee and any trustee under any  
28 indenture or other agreement, may, and upon written request of  
29 the holders of twenty-five percent (or such other percentages as  
30 may be specified in any indenture or other agreement aforesaid)

1 in principal amount of the bonds then outstanding, shall be in  
2 his or its own name:

3 (1) By mandamus or other suit, action or proceeding at law,  
4 or in equity, enforce all rights of the bondholders, including  
5 the right to require the agency to carry out any agreement as to  
6 or pledge of the revenues or receipts of the agency and to  
7 require the agency to carry out any other agreements with or for  
8 the benefit of the bondholders and to perform its and their  
9 duties under this act.

10 (2) Bring suit upon the bonds.

11 (3) By action or suit in equity require the agency to  
12 account as if it were the trustee of an express trust for the  
13 bondholders.

14 (4) By action or suit in equity enjoin any acts or things  
15 which may be unlawful or in violation of the rights of the  
16 bondholders.

17 (5) By notice in writing to the agency, declare all bonds  
18 due and payable and if all defaults shall be made good, then  
19 with the consent of the holders of twenty-five percent (or such  
20 other percentage as may be specified in any indenture or other  
21 agreement aforesaid) of the principal amount of the bonds then  
22 outstanding, to annul such declaration and its consequences.

23 (g) The Commonwealth Court shall have jurisdiction of any  
24 suit, action or proceedings, by the trustee on behalf of the  
25 bondholders. Any trustee appointed by the court or a trustee  
26 acting under an indenture or other agreement and whether or not  
27 all bonds have been declared due and payable, shall be entitled  
28 as of right to the appointment of a receiver, who may exercise  
29 dominion or receipts from the repayment of loans made pursuant  
30 to this act from which are or may be applicable to the payment

1 of the bonds so in default and collect and receive all such  
2 receipts thereafter arising therefrom in the same manner as the  
3 agency or the board might do and shall deposit all such moneys  
4 in a separate account and apply the same in such manner as the  
5 court shall direct. In any suit, action or proceeding by a  
6 trustee, the fees, counsel fees and expenses of such trustee and  
7 of the receiver, if any, and all costs and disbursements allowed  
8 by the court shall be a first charge on any receipts derived  
9 from the repayment of loans made pursuant to this act which are  
10 or may be applicable to the payment of the bonds so in default.  
11 A trustee shall, in addition to the foregoing, have and possess  
12 all of the powers necessary or appropriate for the exercise of  
13 any functions specifically set forth herein or in any indenture  
14 or other agreement or incident to the general representation of  
15 the bondholders in the enforcement and protection of their  
16 rights.

17 Section 9. Section 5 of the act, amended January 18, 1968  
18 (1967 P.L.952, No.424), is amended to read:

19 Section 5. Capacity of Minors.--Any person otherwise  
20 qualifying for a loan [guaranteed] or a loan guarantee by the  
21 agency, a student loan corporation, a lending institution or an  
22 approved institution of higher learning, shall not be  
23 disqualified by reason of his being under the age of [twenty-  
24 one] eighteen years and, for the purpose of applying for, and  
25 receiving such loan or guarantee, any such person shall be  
26 deemed to have full legal capacity to act and shall have all the  
27 rights, powers, privileges and obligations of a person of full  
28 age with respect thereto.

29 Section 10. Section 6 of the act is amended to read:

30 Section 6. Contributions to Agency or Student Loan

1 Corporations; Tax Deduction Thereof.--Notwithstanding the  
2 provisions of any general or special law or the provisions of  
3 any certificate of incorporation, charter or other article of  
4 organization, any person and all corporations, or associations,  
5 organized for the purpose of carrying on business in this State  
6 or authorized to do business in this State, are hereby  
7 authorized to make contributions to the Pennsylvania Higher  
8 Education Assistance Agency and any student loan corporation and  
9 such contributions shall be allowed as deductions in computing  
10 the net taxable income of any such person, corporation or  
11 association for purposes of any income tax imposed by the State  
12 of Pennsylvania.

13 Section 11. Sections 7 and 7.1 of the act, amended December  
14 30, 1974 (P.L.1111, No.357), are amended to read:

15 Section 7. Tax Exemption of Corporation.--The property,  
16 income, bonds or other evidences of indebtedness and interest  
17 thereon, and activities of the Pennsylvania Higher Education  
18 Assistance Agency shall be exempt from all taxes and assessments  
19 and the loans made and the loans guaranteed under this act,  
20 their transfer and the income therefrom (including any profit  
21 made on the sale thereof) and for the purpose of determining the  
22 actual value of shares under Article VII and Article VIII, act  
23 of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of  
24 1971," the value thereof, shall be at all times free from  
25 taxation, other than inheritance or gift taxes, imposed by the  
26 Commonwealth or any of its political subdivisions.

27 Section 7.1. Banks, etc., Authorized to Invest in Loans.--  
28 All banks, bank and trust companies, trust companies, savings  
29 banks, private banks, building and loan associations, credit  
30 unions and saving and loan associations organized under the laws

1 of this Commonwealth or the United States and all insurance  
2 companies, pension funds and trusts, the State Employes'  
3 Retirement Fund, the Public School Employes' Retirement Fund,  
4 and corporations and associations approved by the board of  
5 directors, may invest in loans made by or guaranteed by the  
6 agency and made for the payment of expenses incurred or to be  
7 incurred in acquiring an education at a postsecondary  
8 institution of higher learning.

9 Section 12. This act shall take effect in 60 days.