

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2164 Session of
1982

INTRODUCED BY MAIALE AND CESSAR, JANUARY 19, 1982

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 19, 1982

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:

AN ACT

24
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)

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

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

(2) Bring suit upon the bonds.

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

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

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

(g) The Commonwealth Court shall have jurisdiction of any suit, action or proceedings, by the trustee on behalf of the bondholders. Any trustee appointed by the court or a trustee acting under an indenture or other agreement and whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may exercise dominion or receipts from the repayment of loans made pursuant 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 Employees'
3 Retirement Fund, the Public School Employees' 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.