

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1061 Session of  
2007

INTRODUCED BY WONDERLING, MELLOW, BOSCOLA, MUSTO, C. WILLIAMS,  
M. WHITE, WASHINGTON, GREENLEAF, FOLMER AND BROWNE,  
SEPTEMBER 5, 2007

REFERRED TO EDUCATION, SEPTEMBER 5, 2007

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 further providing for powers and duties of the Pennsylvania  
9 Higher Education Assistance Agency and for audits and  
10 reports.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 4 introductory paragraph, (1.1), (1.3)  
14 and (2) of the act of August 7, 1963 (P.L.549, No.290), referred  
15 to as the Pennsylvania Higher Education Assistance Agency Act,  
16 amended December 29, 1982 (P.L.1450, No.330), are amended and  
17 the section is amended by adding a subsection to read:

18 Section 4. Powers and Duties.--(a) In furtherance of the  
19 purposes set forth in this act, the board of directors shall  
20 have the following powers:

21 \* \* \*

1       (1.1) As a public corporation and body politic subject to  
2 examination by the Auditor General of the Commonwealth, the  
3 agency shall be deemed an "eligible lender" as defined in [Part  
4 B of Title IV of the Federal] section 435 of the Higher  
5 Education Act of 1965 (Public Law 89-329, 20 U.S.C. § 1085) and  
6 in [Part C] section 737 of the Health Professions Educational  
7 Assistance Act of 1976 (Public Law 94-484, 90 Stat. 2265) and,  
8 pursuant to the provisions of those acts and any subsequent  
9 amendments thereto or other applicable Federal programs, be  
10 entitled to exercise all the authority, rights and privileges of  
11 an "eligible lender." Such authority, rights and privileges  
12 shall include but not be limited to the following:

13       (i) To do whatever is necessary to enable students who are  
14 parties to loans made, funded or guaranteed under this act to  
15 qualify for Federal interest subsidy, special allowance, loan  
16 forgiveness or other applicable benefits.

17       (ii) To charge and collect premiums for insurance on loans  
18 and other appropriate charges and pay such insurance premiums or  
19 a portion thereof and other charges as are appropriate or  
20 required by applicable Federal statutes or agreements.

21       (iii) To enter into contracts with schools, lenders,  
22 individuals, corporations, the Student Loan Marketing  
23 Association, other agencies of the Commonwealth, other states  
24 and the Federal Government to make, service, invest in,  
25 purchase, make commitments to purchase, take assignments of or  
26 administer loans made or insured under this act, the Health  
27 Professions Educational Assistance Act of 1976, or other  
28 programs approved by the board of directors and to provide for  
29 loan forgiveness, loan consolidation, loan referral service and  
30 graduated repayment. Loans to lenders or postsecondary

1 institutions made under this clause may be made under terms and  
2 conditions requiring that the funds so loaned be used for the  
3 making of loans to categories of students as defined and  
4 established by the board[. Any such contract of the agency to  
5 service student loans shall not be subject to the provisions of  
6 the act of June 21, 1957 (P.L.390, No.212), referred to as the  
7 Right-to-Know Law.]: Provided That all fees and other charges  
8 and terms of such loans are charged and offered on a uniform  
9 basis and in a manner that does not discriminate against or  
10 advantage any particular lender or group of lenders. For  
11 purposes of this clause, contract shall include schedules or  
12 exhibits relating to pricing or schedules relating to equipment,  
13 time charges, service charges or other charges pertinent to an  
14 agency contract to service student loans. Any citizen of the  
15 Commonwealth of Pennsylvania who desires to examine, inspect or  
16 copy any such contract shall apply to the Attorney General. Upon  
17 receipt of any such application, the Attorney General shall  
18 cause a review of the contract to determine if the disclosure of  
19 the contents of the contract could cause a loss of revenue to  
20 any Commonwealth fund or to the agency. If the Attorney General  
21 determines that it is unlikely that a loss of revenue to any  
22 Commonwealth fund or the agency could occur, the Attorney  
23 General may grant the application and order the agency to permit  
24 the citizen to examine, inspect or copy the contract. Otherwise,  
25 the Attorney General shall deny the application. The Attorney  
26 General shall also have the power to determine that portions of  
27 the contract may be examined, inspected or copied and other  
28 portions may not. The agency may adopt and enforce reasonable  
29 rules, subject to the approval of the Attorney General,  
30 governing the examination, inspection or copying of any such

1 contracts. The Attorney General shall make a determination for  
2 any application within thirty days of receipt thereof.

3 (iv) To purchase stocks, securities, and the obligations  
4 issued by the Student Loan Marketing Association, and to use its  
5 insured and other student loans as security for loans and other  
6 forms of advances from the Student Loan Marketing Association or  
7 others, including lenders and postsecondary institutions  
8 participating or investing in loans made under this act.

9 (v) To be issued certificates of loan insurance as set forth  
10 in section 732, Part C, Title IV of the Health Professions  
11 Educational Assistance Act of 1976 or other appropriate Federal  
12 legislation.

13 \* \* \*

14 [(1.3) To establish annually the award of the "assistance  
15 grant" in the act of July 18, 1974 (P.L.483, No.174), known as  
16 "The Institutional Assistance Grants Act" by dividing the total  
17 amount annually appropriated to the "agency" pursuant to that  
18 act by the number of "Pennsylvania State scholarship students"  
19 certified to the "agency" pursuant to that act.]

20 (2) To pay costs and fees incurred by lenders and others in  
21 making loans, advancing funds representing loans issued through  
22 a line of credit advanced by the agency or the lender and  
23 performing other functions on behalf of the agency[.]: Provided  
24 That payment of such costs and fees are offered to all lenders  
25 on a uniform basis and in a manner that does not discriminate  
26 against or advantage any particular lender or group of lenders.

27 \* \* \*

28 (b) Notwithstanding any other provision of this act to the  
29 contrary, in connection with the exercise of the powers  
30 specified in this section:

1     (1) With regard to any lender that originates, in any given  
2 academic year, a minimum of one million dollars (\$1,000,000) of  
3 student loans originated under the Federal Family Education Loan  
4 Program pursuant to Part B of Title IV of the Higher Education  
5 Act of 1965 (Public Law 89-329, 20 U.S.C. § 1071 et seq.) at  
6 Pennsylvania postsecondary institutions, the board of directors,  
7 upon request of the lender, shall cause the agency to provide  
8 guaranty, origination, disbursement, collection, systems support  
9 and related services and provide the lender with access to the  
10 agency's network operating systems, in a manner that does not  
11 discriminate against or advantage any such lender and at rates  
12 and upon terms and conditions that are the same for all such  
13 lenders, regardless of whether a lender participates in or  
14 otherwise contracts with the agency for any program or product  
15 offered or administered by the agency: Provided, however, That  
16 the fee may be waived for any lender that participates in the  
17 programs or products of the agency.

18     (2) The board of directors shall not use, without good  
19 cause, its audit or investigatory powers in a manner that  
20 subjects a lender or postsecondary institution to audits or  
21 investigations that are more stringent or more frequently  
22 conducted than audits or investigations conducted for any other  
23 postsecondary institution or lender: Provided, however, That the  
24 fee may be waived for any lender that participates in the  
25 programs or products of the agency.

26     Section 2. Section 8 of the act, amended October 29, 1969  
27 (P.L.283, No.116), is amended to read:

28     Section 8. Audits [and Reports.--], Reports and Records.--

29     (a) The activities of the Pennsylvania Higher Education  
30 Assistance Agency under this act shall be subject to the audit

1 of the Department of Auditor General, but the agency shall not  
2 be required to pay a fee for any such audit. It shall make an  
3 annual report to the Governor, and the Legislature showing its  
4 condition at the end of the Commonwealth's fiscal year.

5 (b) Annually, the agency shall submit a performance audit of  
6 all of its revenues and expenses, including the revenues and  
7 expenses of any nonprofit corporation established by the agency,  
8 to the Appropriations Committee of the Senate and the  
9 Appropriations Committee of the House of Representatives for  
10 approval. The audit shall be conducted by the Auditor General,  
11 or another entity that the General Assembly shall deem  
12 appropriate, and shall be designated by resolution within a time  
13 frame set forth by the General Assembly for the purpose of  
14 appropriation of the grant funds as provided in this act.

15 (c) All Pennsylvania postsecondary institutions shall have  
16 access to the agency's data on grant programs and related  
17 information, at the same time and under the same terms and  
18 conditions as any other similarly situated school in  
19 Pennsylvania regardless of whether or not such institution  
20 participates in or otherwise contracts with the agency for any  
21 program or product offered or administered by the agency.

22 (d) The records of any nonprofit corporation established by  
23 the agency shall be subject to review by the Appropriations  
24 Committee of the Senate and the Appropriations Committee of the  
25 House of Representatives.

26 (e) The agency may not seek relief under 12 Pa.C.S. Ch. 53  
27 (relating to trade secrets).

28 Section 3. The act is amended by adding a section to read:

29 Section 8.1. Public Records.--(a) All records of the agency  
30 shall be subject to the act of June 21, 1957 (P.L.390, No.212),

1 referred to as the Right-to-Know Law, and except for the  
2 following, shall be deemed public records:

3 (1) Investigative reports or communications.

4 (2) Any record to which access is restricted by statute, by  
5 decree or by order of court.

6 (3) Any document that if made public would prejudice or  
7 impair a person's reputation or personal security.

8 (b) The following personal information shall be redacted  
9 from a record before it is made public:

10 (1) Social Security numbers.

11 (2) Home addresses.

12 (3) Home telephone numbers.

13 (4) Income of parents or students.

14 (5) Bank account numbers.

15 (6) Credit card numbers.

16 (c) The agency shall have the burden of proving that a  
17 record is not public.

18 (d) An individual, corporation or other entity that conducts  
19 business with the agency is subject to public identification  
20 under the Right-to-Know Law in every circumstance. Any document  
21 or record of the business conducted by the agency with such an  
22 entity is also a public record subject to complete disclosure.

23 Section 4. The provisions of this act are severable. If any  
24 provision of this act or its application to any person or  
25 circumstance is held invalid, the invalidity shall not affect  
26 other provisions or applications of this act which can be given  
27 effect without the invalid provision or application.

28 Section 5. All acts and parts of acts are repealed insofar  
29 as they are inconsistent with this act.

30 Section 6. This act shall take effect in 60 days.