
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1043 Session of
2020

INTRODUCED BY AUMENT, BROWNE, YUDICHAK, BARTOLOTTA, BREWSTER,
PITTMAN AND BOSCOLA, FEBRUARY 19, 2020

REFERRED TO EDUCATION, FEBRUARY 19, 2020

AN ACT

1 Amending Title 24 (Education) of the Pennsylvania Consolidated
2 Statutes, providing for the Higher Education Income Share
3 Financing Pilot Program.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 24 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 74

9 HIGHER EDUCATION INCOME SHARE

10 FINANCING PILOT PROGRAM

11 Sec.

12 7401. Scope of chapter.

13 7402. Definitions.

14 7403. Higher Education Income Share Financing Pilot Program.

15 7404. Program administration.

16 7405. Terms and conditions.

17 7406. Higher Education Income Share Financing Advisory

18 Committee.

1 7407. Public awareness and education.

2 § 7401. Scope of chapter.

3 This chapter relates to the Higher Education Income Share
4 Financing Pilot Program.

5 § 7402. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "College or university." An institution of higher education
10 accredited by an agency recognized under section 496 of the
11 Higher Education Act of 1965 (Public Law 89-329, 20 U.S.C. §
12 1099b).

13 "Committee." The Higher Education Income Share Financing
14 Advisory Committee established under section 7406 (relating to
15 Higher Education Income Share Financing Advisory Committee).

16 "Cost of education." The cost of education contemplated by
17 Title I, Part C of the Higher Education Act of 1965 (Public Law
18 89-329, 20 U.S.C. § 1015 et seq.) paid to a college or
19 university.

20 "Eligible applicant." An individual who meets criteria and
21 conditions required by a participating college or university and
22 by the program administrator under section 7404(b) (relating to
23 program administration).

24 "Income." Adjusted gross income for Federal income tax
25 purposes.

26 "Income share agreement." An agreement between a participant
27 and a participating college or university or a provider which:

28 (1) meets the requirements of the program administrator;

29 (2) requires the participant to pay a specific share or
30 percentage of the participant's income under specified

1 circumstances for a specified period of time; and
2 (3) specifies the terms and conditions of the agreement
3 required under section 7405 (relating to terms and
4 conditions).

5 "Participant." An eligible applicant who enters into an
6 income share agreement with a participating college or
7 university.

8 "Participating college or university." A college or
9 university that:

10 (1) agrees to participate in the program by originating
11 income share agreements with participants in accordance with
12 program guidelines and other requirements set by the program
13 administrator in consultation with the committee;

14 (2) agrees to accept cash and a portion of related
15 securities in exchange for participating in the program; and

16 (3) meets other eligibility requirements as may be
17 determined by the program administrator in consultation with
18 the committee.

19 "Program." The Higher Education Income Share Financing Pilot
20 Program established under section 7403 (relating to Higher
21 Education Income Share Financing Pilot Program).

22 "Program administrator." The Pennsylvania Higher Education
23 Assistance Agency.

24 "Program guidelines." The policies, procedures and
25 guidelines established by the program administrator, in
26 consultation with the committee, for the administration of the
27 program.

28 "Provider." The program administrator or an entity created
29 or designated by the program administrator in consultation with
30 the committee.

1 "Related securities." A security which results from the
2 securitization of the income share agreement, the use of an
3 income share agreement as collateral for direct and indirect
4 borrowings or the use of an income share agreement in connection
5 with any structured finance program approved by the program
6 administrator.

7 "Terms and conditions." The terms and conditions specified
8 under section 7405.

9 § 7403. Higher Education Income Share Financing Pilot Program.

10 (a) Establishment.--The Higher Education Income Share
11 Financing Pilot Program is established. Under the program, a
12 participating college or university shall determine if an
13 individual is eligible to participate in the program. If the
14 individual is determined an eligible applicant, the
15 participating college or university may enter into an income
16 share agreement with the eligible applicant in exchange for
17 providing or financing a portion of the cost of education of the
18 eligible applicant. A provider shall acquire the income share
19 agreement from a participating college or university, and sell
20 the income share agreement, or aggregate the income share
21 agreements the provider acquires and sell the income share
22 agreements or related securities to third-party purchasers and
23 may be extended by the program administrator in consultation
24 with the committee.

25 (b) Administration.--The program shall be administered by
26 the program administrator in consultation with the committee.
27 The program administrator may contract with third parties to
28 provide all or some of the program administrator's duties under
29 this chapter or create, utilize, fund or own an entity to serve
30 as a provider or to facilitate the operation of the program.

1 (c) Guidelines.--The program administrator, in consultation
2 with the committee, shall develop guidelines as are necessary
3 for the administration of the program.

4 (d) Evaluation.--The program administrator, in consultation
5 with the committee, shall evaluate the program. The program
6 administrator, in consultation with the committee, may initiate
7 the evaluation at any time during the pilot program, but must
8 complete the evaluation not later than five years after the
9 effective date of this subsection. The evaluation shall focus on
10 the economic and financial feasibility of the program with
11 respect to eligible applicants, participating colleges and
12 universities and purchasers of income share agreements or
13 related securities. The evaluation may include conducting one or
14 more pilot transactions. If the committee, in consultation with
15 the program administrator, determines that the program is
16 feasible, the program shall be implemented without further
17 action. The committee shall transmit notice of its determination
18 to the Legislative Reference Bureau for publication in the
19 Pennsylvania Bulletin.

20 (e) Proceeds.--Compensation for the services of the program
21 administrator shall be payable from the proceeds of the sale of
22 income share agreements or related securities. If the committee
23 determines that the program is not feasible or the program is
24 not implemented, the program administrator shall be compensated
25 for the program administrator's service by the Commonwealth and
26 reimbursed for incurred expenses.

27 (f) Expiration.--The program shall expire as follows:

28 (1) If the evaluation under subsection (d) is not
29 completed within the time period required under subsection
30 (d), the committee shall transmit notice to the Legislative

1 Reference Bureau for publication in the Pennsylvania
2 Bulletin. The program shall expire on the date of the notice
3 under this paragraph.

4 (2) If the committee determines that the program is not
5 feasible under subsection (d), the program shall expire on
6 the date of the publication of the notice under subsection
7 (d).

8 § 7404. Program administration.

9 (a) Application.--

10 (1) The following individuals may apply to a
11 participating college or university for assistance in paying
12 the cost of education:

13 (i) a Pennsylvania resident attending a
14 participating college or university located in or outside
15 of this Commonwealth; or

16 (ii) a non-Pennsylvania resident attending a
17 participating college or university located in this
18 Commonwealth.

19 (2) The application shall be on the forms and in the
20 manner established by the program administrator.

21 (b) Review.--The participating college or university shall
22 review the application and any other information the program
23 administrator deems necessary to determine if the individual
24 meets criteria established by the participating college or
25 university and the program administrator in the program
26 guidelines.

27 (c) Determination.--If the participating college or
28 university determines that the individual is an eligible
29 applicant, the participating college or university may enter
30 into an income share agreement with the eligible applicant if

1 the income share agreement meets the requirements of section
2 7405 (relating to terms and conditions) and the eligible
3 applicant agrees to the terms and conditions.

4 (d) Acquisition.--A provider may acquire income share
5 agreements from participating colleges or universities.

6 (e) Sale.--A provider may aggregate and sell the income
7 share agreements the provider acquires or create, aggregate and
8 sell related securities composed of or results from the income
9 share agreements the provider acquires to third parties with a
10 portion, to the extent applicable, reserved for the
11 participating colleges or universities. Proceeds from the sale
12 of the income share agreements or related securities shall be
13 used to satisfy obligations in accordance with the following
14 order:

15 (1) Pay transaction costs of the sale of the income
16 share agreements or related securities.

17 (2) Pay administrative expenses of the program
18 administrator.

19 (3) Pay administrative expenses of the provider.

20 (4) Pay or transfer money or related securities to the
21 participating colleges or universities which originated the
22 income share agreements.

23 (f) Servicing.--The program administrator shall service the
24 income share agreements entered into under the program on behalf
25 of the participating colleges or universities and purchasers of
26 related securities. Payments required under an income share
27 agreement shall be collected by the program administrator and
28 distributed in accordance with the terms of the sale income
29 share agreements or related securities.

30 § 7405. Terms and conditions.

1 An income share agreement shall include the following terms
2 and conditions consistent with the program guidelines:

3 (1) The percentage of the income fixed as the share of
4 income due from the participant under the income share
5 agreement, consistent with program guidelines.

6 (2) The frequency of payments to be made by the
7 participant under the income share agreement, consistent with
8 program guidelines.

9 (3) The total number of payments to be made by the
10 participant under the income share agreement and any cap on
11 the total number of payments, consistent with program
12 guidelines.

13 (4) The term that payments must be made by the
14 participant under the income share agreement, to not exceed a
15 number of years specified in the program guidelines.

16 (5) The terms and conditions under which the participant
17 may prepay, defer, extend or extinguish future payments under
18 the income share agreement, consistent with program
19 guidelines.

20 (6) The consumer protections established by the program
21 guidelines.

22 (7) Other terms and conditions established by program
23 guidelines.

24 § 7406. Higher Education Income Share Financing Advisory
25 Committee.

26 (a) Establishment.--The Higher Education Income Share
27 Financing Advisory Committee is established.

28 (b) Powers and duties.--The committee shall oversee the
29 program and shall assist the program administrator in developing
30 program guidelines.

1 (c) Composition.--The committee shall be composed of the
2 following individuals:

3 (1) The Governor or a designee.

4 (2) The Secretary of the Budget.

5 (3) The Secretary of Education.

6 (4) Three residents of this Commonwealth appointed by
7 the Governor.

8 (5) The State Treasurer.

9 (6) The following members of the General Assembly:

10 (i) One member of the Senate appointed by the
11 President pro tempore.

12 (ii) One member of the House of Representatives
13 appointed by the Speaker of the House of Representatives.

14 (iii) One member of the Senate appointed by the
15 Minority Leader of the Senate.

16 (iv) One member of the House of Representatives
17 appointed by the Minority Leader of the House of
18 Representatives.

19 (v) The chairperson and minority chairperson of the
20 Appropriations Committee of the Senate.

21 (vi) The chairperson and minority chairperson of the
22 Appropriations Committee of the House of Representatives.

23 (d) Terms.--A committee member appointed under subsection
24 (c) (4) shall serve at the pleasure of the Governor.

25 (e) Appointments.--Appointments to the committee shall be
26 made not later than 60 days after the effective date of this
27 subsection.

28 (f) Meetings.--The committee shall meet for the first time
29 not later than 120 days after the effective date of this
30 subsection. If the evaluation under section 7403(d) (relating to

1 Higher Education Income Share Financing Pilot Program)
2 determines that the program is feasible and recommends
3 implementation, the committee shall meet at least biannually to
4 review and update program guidelines as necessary.

5 (g) Operation.--The Governor shall be the chairperson of the
6 committee. A majority of the members present shall constitute a
7 quorum. A majority vote shall be necessary for the committee to
8 take action.

9 (h) Compensation.--A committee member may not receive a
10 salary but shall be entitled to reimbursement of the member's
11 expenses.

12 § 7407. Public awareness and education.

13 (a) Requirement.--The program shall include methods designed
14 to raise general public awareness of and to educate students,
15 graduates, participating colleges and universities and faculty
16 about income share agreements and the program. Education shall
17 include the structure, benefits and risks associated with income
18 share agreements.

19 (b) Implementation.--The program administrator shall
20 implement the education required under subsection (a) in the
21 manner it deems appropriate, which may include:

22 (1) An outreach campaign utilizing print media, social
23 media, brochures, advertisements, public service
24 announcements and other similar channels.

25 (2) Distribution of program-related educational
26 information:

27 (i) to participating colleges and universities; and

28 (ii) through participating college and university
29 admission offices.

30 (3) Distribution of income share agreements and program-

1 related information to organizations which supply admission
2 and educational financing-related publications and services
3 to participating colleges and universities.

4 (4) Inclusion of educational and awareness materials in
5 newsletters and other media used by the program administrator
6 in connection with general higher education financing and
7 nonfinancing programs.

8 Section 2. This act shall take effect in 60 days.