

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Know Before You Owe Private Education Loan
5 Act is amended by changing Sections 5 and 10 as follows:

6 (110 ILCS 983/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Annual percentage rate" means the percentage rate
9 calculated according to the Federal Reserve Board's
10 methodology as set forth under Regulation Z, 12 CFR Part 1026.

11 "Cosigner" means any individual who is liable for the
12 obligation of another without compensation, regardless of how
13 the individual is designated in the contract or instrument
14 with respect to that obligation, including an obligation under
15 a private education loan extended to consolidate a borrower's
16 preexisting student loans. The term includes any individual
17 whose signature is requested, as a condition, to grant credit
18 or to forbear on collection. The term does not include a spouse
19 of an individual if the spouse's signature is needed solely to
20 perfect the security interest in a loan.

21 "Default amount" means the loan amount of each outstanding
22 loan at the time the loan is declared in default.

23 "Default rate" means the default amount required to be

1 reported during a reporting period divided by the loan amount
2 of all outstanding loans required to be reported at the
3 beginning of the reporting period.

4 "Educational expense" means any expense, in whole or in
5 part, expressly used to finance postsecondary education,
6 regardless of whether the debt incurred by a student to pay
7 that expense is owed to the provider of postsecondary
8 education whose school, program, or facility the student
9 attends.

10 "Income share agreement" means an agreement under which a
11 borrower commits to pay a percentage of his or her future
12 income in exchange for money, payments, or credits applied to
13 or on behalf of a borrower. An income share agreement
14 constitutes a loan and debt within the meaning of this Act.

15 "Income share agreement provider" means:

16 (1) a person that provides money, payments, or credits
17 to or on behalf of a borrower pursuant to the terms of an
18 income share agreement; or

19 (2) any other person engaged in the business of
20 soliciting, making, funding, or extending income share
21 agreements.

22 "Institution of higher education" includes, but is not
23 limited to, institutions falling under the Private Business
24 and Vocational Schools Act of 2012, the Private College Act,
25 and public institutions of higher education as defined in
26 Section 1 of the Board of Higher Education Act. "Institution

1 of higher education" also includes a person engaged in the
2 business of providing postsecondary education, via
3 correspondence, online, or in this State, to a person located
4 in this State, regardless of whether the person has obtained
5 authorization from the Illinois Board of Higher Education to
6 operate in this State or is accredited.

7 "Loan amount" means the total outstanding balance on each
8 loan owed by a borrower to a lender at any given time.

9 "Private educational lender" and "private education loan"
10 have the meanings ascribed to the terms in Section 140 of the
11 Truth in Lending Act (15 U.S.C. 1650). In addition, "private
12 educational lender" includes an income share agreement
13 provider and a student financing company and "private
14 education loan" includes an income share agreement and student
15 financing.

16 "Student financing company" means a person engaged in the
17 business of securing, making, or extending student financing.

18 "Student financing company" does not include the following
19 persons, only to the extent that State regulation is preempted
20 by federal law:

21 (1) a federally chartered bank, savings bank, savings
22 and loan association, or credit union;

23 (2) a wholly owned subsidiary of a federally chartered
24 bank or credit union; and

25 (3) an operating subsidiary where each owner of the
26 operating subsidiary is wholly owned by the same federally

1 chartered bank or credit union.

2 "Student financing" means an extension of credit that:

3 (1) is not made, insured, or guaranteed under Title IV
4 of the Higher Education Act of 1965 (20 U.S.C. 1070 et
5 seq.);

6 (2) is extended to a consumer expressly, in whole or
7 in part, for postsecondary educational expenses,
8 regardless of whether the extension of credit is provided
9 by the institution of higher education that the student
10 attends;

11 (3) does not include a private education loan;

12 (4) does not include an income share agreement; and

13 (5) does not include a loan that is secured by real
14 property or a dwelling.

15 (Source: P.A. 102-583, eff. 8-26-21; 103-748, eff. 8-2-24.)

16 (110 ILCS 983/10)

17 Sec. 10. Institutional certification required.

18 (a) In general. Except as provided in subsection (b) of
19 this Section, before a private educational lender may disburse
20 any funds with respect to a private education loan described
21 in this Act, the private educational lender shall obtain from
22 the relevant institution of higher education where such loan
23 is to be used on the behalf of the borrower, such institution's
24 certification of:

25 (1) the enrollment status of the borrower;

1 (2) the borrower's cost of attendance at the
2 institution as determined by the institution under Title
3 IV, Part F, of the Higher Education Act of 1965 as amended;
4 and

5 (3) the difference between:

6 (A) such cost of attendance; and

7 (B) the borrower's estimated financial assistance,
8 including such assistance received under Title IV of
9 the Higher Education Act of 1965 (20 U.S.C. 1070 et
10 seq.) and other financial assistance known to the
11 institution, as applicable.

12 (b) Notwithstanding subsection (a), a private educational
13 lender may disburse funds with respect to a private education
14 loan described in this subsection without obtaining the
15 institution's certification if the institution fails to
16 provide the certification within 15 business days of the
17 private educational lender's request for the certification if
18 the private educational lender has received:

19 (1) notification of the institution's refusal to
20 certify the request; or

21 (2) notification that the institution has received the
22 request for certification and will need additional time to
23 comply with the certification request.

24 (c) Loans disbursed without certification. If a private
25 educational lender disburses funds without obtaining the
26 certification as described in subsection (b), the private

1 educational lender shall report the disbursement of the funds
2 in a manner determined by the Student Loan Ombudsman.

3 (d) Notification of loans disbursed without certification.
4 On or before the date a private educational lender issues any
5 funds with respect to a private education loan described in
6 this Section, the private educational lender shall notify the
7 relevant institution of higher education, in writing, of the
8 amount of the extension of credit and the borrower on whose
9 behalf credit is extended.

10 (e) Annual report. A private educational lender that
11 disburses funds with respect to a private education loan
12 described in this Section shall prepare and submit an annual
13 report to the Department of Financial and Professional
14 Regulation and the Student Loan Ombudsman containing the
15 required information about private education loans to be
16 determined by the Student Loan Ombudsman. Such a report shall
17 include, at a minimum, the following information about private
18 education loans described in this Section, including any
19 private education loans disbursed without certification:

20 (1) ~~(A)~~ a list of all institutions of higher education
21 at which a private educational lender disburses funds with
22 respect to a private education loan described in this
23 Section;

24 (2) ~~(B)~~ the total number and dollar amount ~~volume~~ of
25 private education loans described in this Section made
26 annually by a private educational lender;

1 (3) ~~(C)~~ the total number and dollar amount ~~volume~~ of

2 private education loans described in this Section made

3 annually at each school identified under paragraph (1)

4 ~~(A)~~;

5 (4) the total number and dollar amount of private

6 education loans made annually with a cosigner;

7 (5) ~~(D)~~ the historical lifetime default rate for

8 borrowers obtaining a private education loan described in

9 this Section from the private educational lender; ~~and~~

10 (6) the default rate for the private education loans

11 reported by the private educational lender pursuant to

12 paragraph (3) for the previous reporting period under this

13 Act;

14 (7) the default rate for the private education loans

15 reported by the private educational lender pursuant to

16 paragraph (4) for the previous reporting period under this

17 Act; and

18 (8) ~~(E)~~ a copy of each model or template promissory

19 note, agreement, contract or other instrument used by a

20 private educational lender during the previous year to

21 substantiate that a private education loan described in

22 this Section has been extended to the borrower or that a

23 borrower owes a debt to the private educational lender.

24 (f) Annual report exemption. A private educational

25 lender that funds 10 or fewer new private education loans

26 in a calendar year shall be exempt from submitting the

1 annual report for that year. Any lender claiming this
2 exemption shall submit a statement to the Department of
3 Financial and Professional Regulation and the Student Loan
4 Ombudsman certifying the number of private education loans
5 made in that calendar year.

6 (Source: P.A. 102-583, eff. 8-26-21.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.