

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 1. Short title. This Act may be cited as the Know
5 Before You Owe Private Education Loan Act.

6 Section 5. Definitions. As used in this Act:

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

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

1 and Vocational Schools Act of 2012, the Private College Act,
2 and public institutions of higher education as defined in
3 Section 1 of the Board of Higher Education Act. "Institution
4 of higher education" also includes a person engaged in the
5 business of providing postsecondary education, via
6 correspondence, online, or in this State, to a person located
7 in this State, regardless of whether the person has obtained
8 authorization from the Illinois Board of Higher Education to
9 operate in this State or is accredited.

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

17 "Student financing company" means a person engaged in the
18 business of securing, making, or extending student financing.
19 "Student financing company" does not include the following
20 persons, only to the extent that State regulation is preempted
21 by federal law:

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

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

26 (3) an operating subsidiary where each owner of the

1 operating subsidiary is wholly owned by the same federally
2 chartered bank or credit union.

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

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

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

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

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

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

16 Section 10. Institutional certification required.

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

24 (1) the enrollment status of the borrower;

25 (2) the borrower's cost of attendance at the

1 institution as determined by the institution under Title
2 IV, Part F, of the Higher Education Act of 1965 as amended;
3 and

4 (3) the difference between:

5 (A) such cost of attendance; and

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

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

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

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

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

1 in a manner determined by the Student Loan Ombudsman.

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

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

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

23 (B) the volume of private education loans described in
24 this Section made annually by a private educational
25 lender;

26 (C) the volume of private education loans described in

1 this Section made annually at each school identified under
2 paragraph (A);

3 (D) the historical lifetime default rate for borrowers
4 obtaining a private education loan described in this
5 Section from the private educational lender; and

6 (E) a copy of each model or template promissory note,
7 agreement, contract or other instrument used by a private
8 educational lender during the previous year to
9 substantiate that a private education loan described in
10 this Section has been extended to the borrower or that a
11 borrower owes a debt to the private educational lender.

12 (f) Annual report exemption. A private educational
13 lender that funds 10 or fewer new private education loans
14 in a calendar year shall be exempt from submitting the
15 annual report for that year. Any lender claiming this
16 exemption shall submit a statement to the Department of
17 Financial and Professional Regulation and the Student Loan
18 Ombudsman certifying the number of private education loans
19 made in that calendar year.

20 Section 15. Provision of information.

21 (a) Provision of loan statement to borrowers.

22 (1) Loan statement. A private educational lender that
23 disburses any funds with respect to a private education
24 loan described in this Section shall send loan statements,
25 to the borrowers of those funds not less than once every 3

1 months during the time that the borrower is enrolled at an
2 institution of higher education.

3 (2) Contents of statements for income share
4 agreements. Each statement described in subparagraph (1)
5 with respect to income share agreements, shall:

6 (A) report the consumer's total amounts financed
7 under each income share agreement;

8 (B) report the percentage of income payable under
9 each income share agreement;

10 (C) report the maximum number of monthly payments
11 required to be paid under each income share agreement;

12 (D) report the maximum amount payable under each
13 income share agreement;

14 (E) report the maximum duration of each income
15 share agreement;

16 (F) report the minimum annual income above which
17 payments are required under each income share
18 agreement; and

19 (G) report the annual percentage rate for each
20 income share agreement at the minimum annual income
21 above which payments are required and at \$10,000
22 income increments thereafter up to the annual income
23 where the maximum number of monthly payments results
24 in the maximum amount payable.

25 (3) Contents of all other loan statements. Each
26 statement described in subparagraph (1) that does not fall

1 under subparagraph (2) shall:

2 (A) report the borrower's total remaining debt to
3 the private educational lender, including accrued but
4 unpaid interest and capitalized interest;

5 (B) report any debt increases since the last
6 statement; and

7 (C) list the current annual percentage rate for
8 each loan.

9 (b) Certification of exhaustion of federal student loan
10 funds to private educational lender. Upon the request of a
11 private educational lender, acting in connection with an
12 application initiated by a borrower for a private education
13 loan in accordance with Section 5, the institution of higher
14 education shall within 15 days of receipt of the request
15 provide certification to such private educational lender:

16 (1) that the borrower who initiated the application
17 for the private education loan, or on whose behalf the
18 application was initiated, is enrolled or is scheduled to
19 enroll at the institution of higher education;

20 (2) of the borrower's cost of attendance at the
21 institution of higher education as determined under
22 paragraph (2) of subsection (a) of this Section;

23 (3) of the difference between:

24 (A) the cost of attendance at the institution of
25 higher education; and

26 (B) the borrower's estimated financial assistance

1 received under the federal Higher Education Act of
2 1965 and other assistance known to the institution of
3 higher education, as applicable;

4 (4) that the institution of higher education has
5 received the request for certification and will need
6 additional time to comply with the certification request;
7 and

8 (5) if applicable, that the institution of higher
9 education is refusing to certify the private education
10 loan.

11 (c) Certification of exhaustion of federal student loan
12 funds to borrower. With respect to a certification request
13 described under subsection (b), and prior to providing such
14 certification in paragraph (1) of subsection (b) or providing
15 notice of the refusal to provide certification under paragraph
16 (5) of subsection (b), the institution of higher education
17 shall:

18 (1) determine whether the borrower who initiated the
19 application for the private education loan, or on whose
20 behalf the application was initiated, has applied for and
21 exhausted the federal financial assistance available to
22 such borrower under the federal Higher Education Act of
23 1965 and inform the borrower accordingly;

24 (2) provide the borrower whose loan application has
25 prompted the certification request by a private
26 educational lender, as described in paragraph (1) of

1 subsection (b), with the following information and
2 disclosures:

3 (A) the amount of additional federal student
4 assistance for which the borrower is eligible and the
5 advantages of federal loans under the federal Higher
6 Education Act of 1965, including disclosure of income
7 driven repayment options, fixed interest rates,
8 deferments, flexible repayment options, loan
9 forgiveness programs, additional protections, and the
10 higher student loan limits for dependent borrowers
11 whose parents are not eligible for a Federal Direct
12 PLUS Loan;

13 (B) the borrower's ability to select a private
14 educational lender of the borrower's choice;

15 (C) the impact of a proposed private education
16 loan on the borrower's potential eligibility for other
17 financial assistance, including federal financial
18 assistance under the federal Higher Education Act; and

19 (D) the borrower's right to accept or reject a
20 private education loan within the 30-day period
21 following a private educational lender's approval of a
22 borrower's application and the borrower's 3-day right
23 to cancel period; and

24 (3) Any institution of higher education that is also
25 acting as a private educational lender shall provide the
26 certification of exhaustion of federal student loan funds

1 described in paragraphs (1) and (2) of this subsection (c)
2 to the borrower prior to disbursing funds to the borrower.
3 Any institution of higher education that is not eligible
4 for funding under Title IV of the federal Higher Education
5 Act of 1965 is not required to provide this certification
6 to the borrower.

7 Section 20. Annual certification and maintenance of
8 approval.

9 (a) Certification. An institution of higher education must
10 certify annually to the Board of Higher Education, and the
11 Illinois Community College Board where applicable, whether it
12 has made all certifications required under subsections (b) and
13 (c) of Section 15.

14 (b) Maintenance of approval. In each instance where the
15 Board of Higher Education or the Illinois Community College
16 Board provides the institution of higher education with
17 approval to operate, the certification provided pursuant to
18 this Section shall be required for the maintenance of approval
19 to operate.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.