

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Higher Education Appropriations Committee

BILL: CS/CS/SB 606

INTRODUCER: Higher Education Appropriations Committee, Higher Education Committee and Senator Wise

SUBJECT: Florida Prepaid College Program

DATE: March 19, 2009 REVISED: \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR  | REFERENCE | ACTION        |
|----|---------------|-----------------|-----------|---------------|
| 1. | <u>Harkey</u> | <u>Matthews</u> | <u>HE</u> | <u>Fav/CS</u> |
| 2. | <u>Bryant</u> | <u>Hamon</u>    | <u>HI</u> | <u>Fav/CS</u> |
| 3. | _____         | _____           | _____     | _____         |
| 4. | _____         | _____           | _____     | _____         |
| 5. | _____         | _____           | _____     | _____         |
| 6. | _____         | _____           | _____     | _____         |

**Please see Section VIII. for Additional Information:**

- A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes
- B. AMENDMENTS.....  Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

This bill allows beneficiaries under the Florida Prepaid College Program to transfer the redemption value of their advance payment contract to any eligible institution as defined in 26 U.S.C. s. 529, the Internal Revenue Code.

This bill amends s 1009.98 and repeals subsection (10) of s. 744.1083, Florida Statutes.

**II. Present Situation:**

**The Stanley G. Tate Florida Prepaid College Program**

The Stanley G. Tate Florida Prepaid College Program allows purchasers to buy prepaid contracts to pay the registration fees, local fees, tuition differential fees and dormitory expenses of beneficiaries at Florida community colleges and state universities, in advance of enrollment.<sup>1</sup> Beneficiaries of prepaid contracts are permitted to transfer the benefits of their contracts to any

<sup>1</sup> s. 1009.98, F.S.

of the following institutions that qualify as an “eligible educational institution” under s. 529 of the Internal Revenue Code:

- An independent college or university located and chartered in Florida, that confers degrees and is accredited by the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools and that confers degrees;
- Any out-of-state college or university that confers degrees, is not-for-profit, and is accredited by a regional accrediting association; and
- An applied technology diploma program or career certificate program operated by a Florida community college or a career center operated by a district school board.<sup>2</sup>

The value of the prepaid contract benefits that may be transferred to one of those educational institutions may not exceed the redemption value of the prepaid contract, that is, the value of the tuition or benefits at a Florida community college or university or the actual cost of fees or housing, whichever is less.

### **529 Plans (Qualified Tuition Program)**

Section 529 of the Internal Revenue Code, exempts the contributor and the beneficiary of a qualified tuition program from the payment of federal income tax on the funds contributed to or disbursed from the program.<sup>3</sup> These programs, popularly known as 529 plans, are established by a state or eligible education institutions. There are two types of 529 plans: college savings plans and prepaid tuition plans. The Florida Prepaid College Plan is a prepaid tuition 529 plan. Under the federal law, an “eligible educational institution” is a postsecondary educational institution eligible to participate in federal student financial aid programs under the federal Higher Education Act of 1965, such as the Pell Grant Program and federal student loan programs. Thus, the federal law would permit a beneficiary of a 529 plan to transfer the benefits of the plan to a broader range of institutions than would Florida’s prepaid program.

### **III. Effect of Proposed Changes:**

This bill permits beneficiaries of prepaid contracts to transfer the benefits of a prepaid contract to any eligible educational institution as defined in s. 529 of the Internal Revenue Code. The bill permits Florida Prepaid College Program beneficiaries the maximum choice permitted under s. 529 of the Internal Revenue Code in selecting an educational institution at which the benefits of their plans could be used.

The bill requires that any advertisement disseminated by a for-profit educational institution which references the Florida Prepaid College Program shall state that the Florida Prepaid College Board does not endorse any particular educational institution.

The bill repeals an optional provision in s.744.1083, Florida Statutes, statute relating to colleges and universities registering as a professional guardian that is not being used.

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<sup>2</sup> *Id.*

<sup>3</sup> 26 USC s. 529(c) (2006)

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Beneficiaries of prepaid contracts will have greater flexibility in selecting a postsecondary education institution.

The bill allows the redemption value of a Florida Prepaid College Program plan to be used at more educational institutions, thereby allowing the institution to increase or maintain enrollments by attracting more students.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Committee Substitute by Higher Education on March 4, 2009:**

The Committee Substitute requires all for-profit institutions that reference the Florida Prepaid Program to include a statement that the Prepaid Program does not endorse any particular educational institution.

**Committee Substitute by Higher Education Appropriations on March 19, 2009:**

The Committee Substitute repeals subsection (10) of s. 744.1083, Florida Statutes, an optional provision relating to colleges and universities registering as a professional guardian that is not being used.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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