

By the Committee on Education and Senator Clary

304-2206-98

1 A bill to be entitled
2 An act relating to postsecondary education;
3 amending s. 240.551, F.S.; renaming the Florida
4 Prepaid Postsecondary Education Expense
5 Program, Board, and Trust Fund the Florida
6 Prepaid College Program, Board, and Trust Fund,
7 respectively; reordering provisions and
8 providing technical revisions; deleting
9 obsolete provisions; conforming
10 cross-references; permitting soliciting and
11 contracting for records administration
12 services; providing for the inclusion of
13 certain fees within advance payment contracts
14 for tuition; amending s. 222.22, F.S.;
15 conforming provisions; amending s. 732.402,
16 F.S.; exempting Florida Prepaid College Program
17 contracts from the probate claims of creditors;
18 reenacting ss. 731.201(13) and 735.301(1),
19 F.S., relating to probate, to incorporate the
20 amendment to s. 732.402, F.S., in references;
21 providing an effective date.

23 Be It Enacted by the Legislature of the State of Florida:

25 Section 1. Section 240.551, Florida Statutes, is
26 amended to read:

27 240.551 Florida Prepaid College ~~Postsecondary~~
28 ~~Education Expense~~ Program.--

29 (1) LEGISLATIVE INTENT.--The Legislature recognizes
30 that educational opportunity at the postsecondary level is a
31 critical state interest. It further recognizes that

1 educational opportunity is best ensured through the provision
2 of postsecondary institutions that are geographically and
3 financially accessible. Accordingly, it is the intent of the
4 Legislature that a program be established through which many
5 of the costs associated with postsecondary attendance may be
6 paid in advance and fixed at a guaranteed level for the
7 duration of undergraduate enrollment. It is similarly the
8 intent of the Legislature to provide a program that fosters
9 timely financial planning for postsecondary attendance and to
10 encourage employer participation in such planning through
11 program contributions on behalf of employees and the
12 dependents of employees.

13 (2) DEFINITIONS. ~~--As used in this section:~~

14 (a) "Advance payment contract" means a contract
15 entered into by the board and a purchaser pursuant to this
16 section.

17 (b) "Board" means the Florida Prepaid College
18 ~~Postsecondary Education Expense~~ Board.

19 (c) "Fund" means the Florida Prepaid College
20 ~~Postsecondary Education Expense~~ Trust Fund.

21 ~~(d)(g)~~ "Program" means the Florida Prepaid College
22 ~~Postsecondary Education Expense~~ Program.

23 ~~(e)(d)~~ "Purchaser" means a person who makes or is
24 obligated to make advance registration or dormitory residence
25 payments in accordance with an advance payment contract.

26 ~~(f)(e)~~ "Qualified beneficiary" means:

27 1. A resident of this state at the time a purchaser
28 enters into an advance payment contract on behalf of the
29 resident;

30 2. A nonresident who is the child of a noncustodial
31 parent who is a resident of this state at the time that such

1 parent enters into an advance payment contract on behalf of
2 the child; or

3 3. For purposes of advance payment contracts entered
4 into pursuant to subsection (22)~~paragraph (5)(j)~~, a graduate
5 of an accredited high school in this state who is a resident
6 of this state at the time he or she is designated to receive
7 the benefits of the advance payment contract.

8 (g)~~(h)~~ "Registration fee" means matriculation fee,
9 financial aid fee, building fee, and Capital Improvement Trust
10 Fund fee.

11 (h)~~(f)~~ "State postsecondary institution" means any
12 community college identified in s. 240.3031 or university
13 identified in s. 240.2011.

14 (3) FLORIDA PREPAID COLLEGE PROGRAM; CREATION.--There
15 is created a Florida Prepaid College ~~Postsecondary Education~~
16 ~~Expense~~ Program to provide a medium through which the cost of
17 registration and dormitory residence may be paid in advance of
18 enrollment in a state postsecondary institution at a rate
19 lower than the projected corresponding cost at the time of
20 actual enrollment. Such payments shall be combined and
21 invested in a manner that yields, at a minimum, sufficient
22 interest to generate the difference between the prepaid amount
23 and the cost of registration and dormitory residence at the
24 time of actual enrollment. Students who enroll in a state
25 postsecondary institution pursuant to this section shall be
26 charged no fees in excess of the terms delineated in the
27 advance payment contract.

28 (4) FLORIDA PREPAID COLLEGE TRUST FUND.--There is
29 created within the State Board of Administration the Florida
30 Prepaid College ~~Postsecondary Education Expense~~ Trust Fund.
31 The fund shall consist of state appropriations, moneys

1 acquired from other governmental or private sources, and
2 moneys remitted in accordance with advance payment contracts.
3 All funds deposited into the trust fund may be invested
4 pursuant to s. 215.47; ~~however, such investment shall not be~~
5 ~~mandatory~~. Dividends, interest, and gains accruing to the
6 trust fund shall increase the total funds available for the
7 program. Notwithstanding the provisions of chapter 717, funds
8 associated with terminated contracts ~~terminated~~ pursuant to
9 subsection (12)~~paragraph (6)(d)~~ and canceled contracts for
10 which no refunds have been claimed shall increase the total
11 funds available for the program. However, the board shall
12 establish procedures for notifying purchasers who subsequently
13 cancel their contracts of any unclaimed refund and shall
14 establish a time period after which no refund may be claimed
15 by a purchaser who canceled a contract. Any balance contained
16 within the fund at the end of a fiscal year shall remain
17 therein and shall be available for carrying out the purposes
18 of the program. In the event that dividends, interest, and
19 gains exceed ~~exceeds~~ the amount necessary for program
20 administration and disbursements, the board may designate an
21 additional percentage of the fund to serve as a contingency
22 fund. Moneys contained within the fund shall be exempt from
23 the investment requirements of s. 18.10. Any funds of a
24 direct-support organization created pursuant to subsection
25 (22)~~paragraph (5)(j)~~ shall be exempt from the provisions of
26 this subsection ~~paragraph~~.

27 (5) PROGRAM ADMINISTRATION.--

28 (a) The Florida Prepaid College Postsecondary
29 ~~Education Expense~~ Program shall be administered by the Florida
30 ~~Prepaid College Postsecondary Education Expense~~ Board as an
31 agency of the state. The Florida Prepaid College

1 ~~Postsecondary Education Expense~~ Board is hereby created as a
2 body corporate with all the powers of a body corporate for the
3 purposes delineated in this section. For the purposes of s.
4 6, Art. IV of the State Constitution, the board shall be
5 assigned to and administratively housed within the State Board
6 of Administration, but it shall independently exercise the
7 powers and duties specified in this section.

8 (b) The board shall consist of seven members to be
9 composed of the Insurance Commissioner and Treasurer, the
10 Comptroller, the Chancellor of the Board of Regents, the
11 Executive Director of the State Board of Community Colleges,
12 and three members appointed by the Governor and subject to
13 confirmation by the Senate. Each member appointed by the
14 Governor shall possess knowledge, skill, and experience in the
15 areas of accounting, actuary, risk management, or investment
16 management. Each member of the board not appointed by the
17 Governor may name a designee to serve the board on behalf of
18 the member; however, any designee so named shall meet the
19 qualifications required of gubernatorial appointees to the
20 board. Members appointed by the Governor shall serve terms of
21 3 years ~~except that, in making the initial appointments, the~~
22 ~~Governor shall appoint one member to serve for 1 year, one~~
23 ~~member to serve for 2 years, and one member to serve for 3~~
24 ~~years.~~ Any person appointed to fill a vacancy on the board
25 shall be appointed in a like manner and shall serve for only
26 the unexpired term. Any member shall be eligible for
27 reappointment and shall serve until a successor qualifies.
28 Members of the board shall serve without compensation but
29 shall be reimbursed for per diem and travel in accordance with
30 s. 112.061. Each member of the board shall file a full and
31 public disclosure of his or her financial interests pursuant

1 to s. 8, Art. II of the State Constitution and corresponding
2 statute.

3 ~~(c)(a) The Governor shall appoint a member of the~~
4 ~~board to serve as the initial chair of the board. Thereafter,~~
5 ~~the board shall elect a chair annually.~~ The board shall
6 annually elect a board member to serve as chair and a board
7 member to serve as vice chair and shall designate a
8 secretary-treasurer who need not be a member of the board.
9 The secretary-treasurer shall keep a record of the proceedings
10 of the board and shall be the custodian of all printed
11 material filed with or by the board and of its official seal.
12 Notwithstanding the existence of vacancies on the board, a
13 majority of the members shall constitute a quorum. The board
14 shall take no official action in the absence of a quorum. The
15 board shall meet, at a minimum, on a quarterly basis at the
16 call of the chair.

17 (6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.--The board
18 shall:

19 ~~(a)(b) The board shall~~ Appoint an executive director
20 to serve as the chief administrative and operational officer
21 of the board and to perform other duties assigned to him or
22 her by the board.

23 (b) Administer the fund in a manner that is
24 sufficiently actuarially sound to defray the obligations of
25 the program. The board shall annually evaluate or cause to be
26 evaluated the actuarial soundness of the fund. If the board
27 perceives a need for additional assets in order to preserve
28 actuarial soundness, the board may adjust the terms of
29 subsequent advance payment contracts to ensure such soundness.

30 (c) Establish a comprehensive investment plan for the
31 purposes of this section with the approval of the State Board

1 of Administration. The comprehensive investment plan shall
2 specify the investment policies to be utilized by the board in
3 its administration of the fund. The board may place assets of
4 the fund in savings accounts or use the same to purchase fixed
5 or variable life insurance or annuity contracts, securities,
6 evidence of indebtedness, or other investment products
7 pursuant to the comprehensive investment plan and in such
8 proportions as may be designated or approved under that plan.
9 Such insurance, annuity, savings, or investment products shall
10 be underwritten and offered in compliance with the applicable
11 federal and state laws, regulations, and rules by persons who
12 are duly authorized by applicable federal and state
13 authorities. Within the comprehensive investment plan, the
14 board may authorize investment vehicles, or products incident
15 thereto, as may be available or offered by qualified companies
16 or persons. A contract purchaser may not direct the investment
17 of his or her contribution to the trust fund and a contract
18 beneficiary may not direct the contribution made on his or her
19 behalf to the trust fund. Board members and employees of the
20 board are not prohibited from purchasing advance payment
21 contracts by virtue of their fiduciary responsibilities as
22 members of the board or official duties as employees of the
23 board.

24 (d) Solicit proposals and contract, pursuant to s.
25 287.057, for the marketing of the Florida Prepaid College
26 Program. The entity designated pursuant to this paragraph
27 shall serve as a centralized marketing agent for the program
28 and shall be solely responsible for the marketing of the
29 program. Any materials produced for the purpose of marketing
30 the program shall be submitted to the board for review. No
31 such materials shall be made available to the public before

1 the materials are approved by the board. Any educational
2 institution may distribute marketing materials produced for
3 the program; however, all such materials shall have been
4 approved by the board prior to distribution. Neither the state
5 nor the board shall be liable for misrepresentation of the
6 program by a marketing agent.

7 (e) Solicit proposals and contract, pursuant to s.
8 287.057, for a trustee services firm to select and supervise
9 investment programs on behalf of the board. The goals of the
10 board in selecting a trustee services firm shall be to obtain
11 the highest standards of professional trustee services, to
12 allow all qualified firms interested in providing such
13 services equal consideration, and to provide such services to
14 the state at no cost and to the purchasers at the lowest cost
15 possible. The trustee services firm shall agree to meet the
16 obligations of the board to qualified beneficiaries if moneys
17 in the fund fail to offset the obligations of the board as a
18 result of imprudent selection or supervision of investment
19 programs by such firm. Evaluations of proposals submitted
20 pursuant to this paragraph shall include, but not be limited
21 to, the following criteria:

22 1. Adequacy of trustee services for supervision and
23 management of the program, including current operations and
24 staff organization and commitment of management to the
25 proposal.

26 2. Capability to execute program responsibilities
27 within time and regulatory constraints.

28 3. Past experience in trustee services and current
29 ability to maintain regular and continuous interactions with
30 the board, records administrator, and product provider.

31

1 4. The minimum purchaser participation assumed within
2 the proposal and any additional requirements of purchasers.

3 5. Adequacy of technical assistance and services
4 proposed for staff.

5 6. Adequacy of a management system for evaluating and
6 improving overall trustee services to the program.

7 7. Adequacy of facilities, equipment, and electronic
8 data processing services.

9 8. Detailed projections of administrative costs,
10 including the amount and type of insurance coverage, and
11 detailed projections of total costs.

12 (f) Solicit proposals and contract, pursuant to s.
13 287.057, for product providers to develop investment
14 portfolios on behalf of the board to achieve the purposes of
15 this section. Product providers shall be limited to authorized
16 insurers as defined in s. 624.09, banks as defined in s.
17 658.12, associations as defined in s. 665.012, authorized
18 Securities and Exchange Commission investment advisers, and
19 investment companies as defined in the Investment Company Act
20 of 1940. All product providers shall have their principal
21 place of business and corporate charter located and registered
22 in the United States. In addition, each product provider shall
23 agree to meet the obligations of the board to qualified
24 beneficiaries if moneys in the fund fail to offset the
25 obligations of the board as a result of imprudent investing by
26 such provider. Each authorized insurer shall evidence superior
27 performance overall on an acceptable level of surety in
28 meeting its obligations to its policyholders and other
29 contractual obligations. Only qualified public depositories
30 approved by the Insurance Commissioner and Treasurer shall be
31 eligible for board consideration. Each investment company

1 shall provide investment plans as specified within the request
2 for proposals. The goals of the board in selecting a product
3 provider company shall be to provide all purchasers with the
4 most secure, well-diversified, and beneficially administered
5 postsecondary education expense plan possible, to allow all
6 qualified firms interested in providing such services equal
7 consideration, and to provide such services to the state at no
8 cost and to the purchasers at the lowest cost possible.
9 Evaluations of proposals submitted pursuant to this paragraph
10 shall include, but not be limited to, the following criteria:
11 1. Fees and other costs charged to purchasers that
12 affect account values or operational costs related to the
13 program.
14 2. Past and current investment performance, including
15 investment and interest rate history, guaranteed minimum rates
16 of interest, consistency of investment performance, and any
17 terms and conditions under which moneys are held.
18 3. Past experience and ability to provide timely and
19 accurate service in the areas of records administration,
20 benefit payments, investment management, and complaint
21 resolution.
22 4. Financial history and current financial strength
23 and capital adequacy to provide products, including operating
24 procedures and other methods of protecting program assets.
25 (7)(c) FLORIDA PREPAID COLLEGE BOARD; POWERS.--The
26 board shall have the powers necessary or proper to carry out
27 the provisions of this section, including, but not limited to,
28 the power to:
29 (a)1. Adopt an official seal and rules.
30 (b)2. Sue and be sued.
31

1 ~~(c)3.~~ Make and execute contracts and other necessary
2 instruments.

3 ~~(d)4.~~ Establish agreements or other transactions with
4 federal, state, and local agencies, including state
5 universities and community colleges.

6 ~~(e)5.~~ Invest funds not required for immediate
7 disbursement.

8 ~~(f)6.~~ Appear in its own behalf before boards,
9 commissions, or other governmental agencies.

10 ~~(g)7.~~ Hold, buy, and sell any instruments,
11 obligations, securities, and property determined appropriate
12 by the board.

13 ~~(h)8.~~ Require a reasonable length of state residence
14 for qualified beneficiaries.

15 ~~(i)9.~~ Restrict the number of participants in the
16 community college plan, university plan, and dormitory
17 residence plan, respectively. However, any person denied
18 participation solely on the basis of such restriction shall be
19 granted priority for participation during the succeeding year.

20 ~~(j)10.~~ Segregate contributions and payments to the
21 fund into various accounts and funds.

22 ~~(k)11.~~ Contract for necessary goods and services,
23 employ necessary personnel, and engage the services of private
24 consultants, actuaries, managers, legal counsel, and auditors
25 for administrative or technical assistance.

26 ~~(l)12.~~ Solicit and accept gifts, grants, loans, and
27 other aids from any source or participate in any other way in
28 any government program to carry out the purposes of this
29 section.

30 ~~(m)13.~~ Require and collect administrative fees and
31 charges in connection with any transaction and impose

1 reasonable penalties, including default, for delinquent
2 payments or for entering into an advance payment contract on a
3 fraudulent basis.

4 (n)~~14~~. Procure insurance against any loss in
5 connection with the property, assets, and activities of the
6 fund or the board.

7 (o)~~15~~. Impose reasonable time limits on use of the
8 tuition benefits provided by the program. However, any such
9 limitation shall be specified within the advance payment
10 contract.

11 (p)~~16~~. Delineate the terms and conditions under which
12 payments may be withdrawn from the fund and impose reasonable
13 fees and charges for such withdrawal. Such terms and
14 conditions shall be specified within the advance payment
15 contract.

16 (q)~~17~~. Provide for the receipt of contributions in
17 lump sums or installment payments.

18 ~~18. Establish other policies, procedures, and criteria
19 to implement and administer the provisions of this section.~~

20 (r)~~19~~. Require that purchasers of advance payment
21 contracts verify, under oath, any requests for contract
22 conversions, substitutions, transfers, cancellations, refund
23 requests, or contract changes of any nature. Verification
24 shall be accomplished as authorized and provided for in s.
25 92.525(1)(a).

26 ~~(d) The board shall administer the fund in a manner
27 that is sufficiently actuarially sound to defray the
28 obligations of the program. The board shall annually evaluate
29 or cause to be evaluated the actuarial soundness of the fund.
30 If the board perceives a need for additional assets in order
31 to preserve actuarial soundness, the board may adjust the~~

1 ~~terms of subsequent advance payment contracts to ensure such~~
2 ~~soundness.~~

3 ~~(e) The board, acting with the approval of the State~~
4 ~~Board of Administration, shall establish a comprehensive~~
5 ~~investment plan for the purposes of this section. The~~
6 ~~comprehensive investment plan shall specify the investment~~
7 ~~policies to be utilized by the board in its administration of~~
8 ~~the fund. The board may place assets of the fund in savings~~
9 ~~accounts or use the same to purchase fixed or variable life~~
10 ~~insurance or annuity contracts, securities, evidence of~~
11 ~~indebtedness, or other investment products pursuant to the~~
12 ~~comprehensive investment plan and in such proportions as may~~
13 ~~be designated or approved under that plan. Such insurance,~~
14 ~~annuity, savings, or investment products shall be underwritten~~
15 ~~and offered in compliance with the applicable federal and~~
16 ~~state laws, regulations, and rules by persons who are duly~~
17 ~~authorized by applicable federal and state authorities.~~
18 ~~Within the comprehensive investment plan, the board may~~
19 ~~authorize investment vehicles, or products incident thereto,~~
20 ~~as may be available or offered by qualified companies or~~
21 ~~persons. A contract purchaser may not direct the investment of~~
22 ~~his or her contribution to the trust fund, and a contract~~
23 ~~beneficiary may not direct the contribution made on his or her~~
24 ~~behalf to the trust fund. Board members and employees of the~~
25 ~~board are not prohibited from purchasing advance payment~~
26 ~~contracts by virtue of their fiduciary responsibilities as~~
27 ~~members of the board or official duties as employees of the~~
28 ~~board.~~

29 ~~(s)(f)~~ The board may Delegate responsibility for
30 administration of the comprehensive investment plan required
31 in paragraph (6)(c) ~~(e)~~ to a person the board determines to be

1 qualified. Such person shall be compensated by the board.
2 Directly or through such person, the board may contract with a
3 private corporation or institution to provide such services as
4 may be a part of the comprehensive investment plan or as may
5 be deemed necessary or proper by the board or such person,
6 including, but not limited to, providing consolidated billing,
7 individual and collective recordkeeping and accountings, and
8 asset purchase, control, and safekeeping.

9 (t) Endorse insurance coverage written exclusively for
10 the purpose of protecting advance payment contracts, and the
11 purchasers and beneficiaries thereof, which may be issued in
12 the form of a group life policy and which is exempt from the
13 provisions of part V of chapter 627.

14 (u) Solicit proposals and contract, pursuant to s.
15 287.057, for the services of a records administrator. The
16 goals of the board in selecting a records administrator shall
17 be to provide all purchasers with the most secure,
18 well-diversified, and beneficially administered postsecondary
19 education expense plan possible, to allow all qualified firms
20 interested in providing such services equal consideration, and
21 to provide such services to the state at no cost and to the
22 purchasers at the lowest cost possible. Evaluations of
23 proposals submitted pursuant to this paragraph shall include,
24 but not be limited to, the following criteria:

25 1. Fees and other costs charged to purchasers that
26 affect account values or operational costs related to the
27 program.

28 2. Past experience in records administration and
29 current ability to provide timely and accurate service in the
30 areas of records administration, audit and reconciliation,
31

1 plan communication, participant service, and complaint
2 resolution.

3 3. Sufficient staff and computer capability for the
4 scope and level of service expected by the board.

5 4. Financial history and current financial strength
6 and capital adequacy to provide administrative services
7 required by the board.

8 (v) Establish other policies, procedures, and criteria
9 to implement and administer the provisions of this section.

10 ~~(g) The board shall annually prepare or cause to be~~
11 ~~prepared a report setting forth in appropriate detail an~~
12 ~~accounting of the fund and a description of the financial~~
13 ~~condition of the program at the close of each fiscal year.~~
14 ~~Such report shall be submitted to the President of the Senate,~~
15 ~~the Speaker of the House of Representatives, and members of~~
16 ~~the State Board of Education on or before March 31 each year.~~
17 ~~In addition, the board shall make the report available to~~
18 ~~purchasers of advance payment contracts. The board shall~~
19 ~~provide to the Board of Regents and the State Board of~~
20 ~~Community Colleges by March 31 each year complete advance~~
21 ~~payment contract sales information including projected~~
22 ~~postsecondary enrollments of qualified beneficiaries. The~~
23 ~~accounts of the fund shall be subject to annual audits by the~~
24 ~~Auditor General or his or her designee.~~

25 (8)(h) QUALIFIED STATE TUITION PROGRAM
26 STATUS.--Notwithstanding any other provision of this section,
27 the board may adopt rules necessary to enable the program to
28 retain its status as a "qualified state tuition prepaid
29 program" in order to maintain its tax exempt status or other
30 similar status of the program, purchasers, and qualified
31 beneficiaries under the Internal Revenue Code of 1986, as

1 defined in s. 220.03(1). The board shall inform purchasers of
2 changes to the tax or securities status of contracts purchased
3 through the program.

4 ~~(i) The board shall solicit proposals for the~~
5 ~~marketing of the Florida Prepaid Postsecondary Education~~
6 ~~Expense Program pursuant to s. 287.057. The entity designated~~
7 ~~pursuant to this paragraph shall serve as a centralized~~
8 ~~marketing agent for the program and shall be solely~~
9 ~~responsible for the marketing of the program. Any materials~~
10 ~~produced for the purpose of marketing the program shall be~~
11 ~~submitted to the board for review. No such materials shall be~~
12 ~~made available to the public before the materials are approved~~
13 ~~by the board. Any educational institution may distribute~~
14 ~~marketing materials produced for the program; however, all~~
15 ~~such materials shall have been approved by the board prior to~~
16 ~~distribution. Neither the state nor the board shall be liable~~
17 ~~for misrepresentation of the program by a marketing agent.~~

18 ~~(j) The board may establish a direct-support~~
19 ~~organization which is:~~

20 ~~1. A Florida corporation, not for profit, incorporated~~
21 ~~under the provisions of chapter 617 and approved by the~~
22 ~~Secretary of State.~~

23 ~~2. Organized and operated exclusively to receive,~~
24 ~~hold, invest, and administer property and to make expenditures~~
25 ~~to or for the benefit of the program.~~

26 ~~3. An organization which the board, after review, has~~
27 ~~certified to be operating in a manner consistent with the~~
28 ~~goals of the program and in the best interests of the state.~~
29 ~~Unless so certified, the organization may not use the name of~~
30 ~~the program.~~

31

1 ~~4. Subject to an annual postaudit by an independent~~
2 ~~certified public accountant in accordance with rules~~
3 ~~promulgated by the board. The annual audit shall be submitted~~
4 ~~to the State Board of Administration and the Auditor General~~
5 ~~for review. The State Board of Administration and Auditor~~
6 ~~General shall have the authority to require and receive from~~
7 ~~the organization or its independent auditor any detail or~~
8 ~~supplemental data relative to the operation of the~~
9 ~~organization. The identity of donors who desire to remain~~
10 ~~anonymous shall be confidential and exempt from the provisions~~
11 ~~of s. 119.07(1) and s. 24(a), Art. I of the State~~
12 ~~Constitution, and such anonymity shall be maintained in the~~
13 ~~auditor's report. Information received by the organization~~
14 ~~that is otherwise confidential or exempt by law shall retain~~
15 ~~such status. Any sensitive, personal information regarding~~
16 ~~contract beneficiaries, including their identities, is exempt~~
17 ~~from the provisions of s. 119.07(1) and s. 24(a), Art. I of~~
18 ~~the State Constitution.~~

19
20 ~~The chair of the board and the executive director shall be~~
21 ~~directors of the direct-support organization and shall jointly~~
22 ~~name three other individuals to serve as directors of the~~
23 ~~organization.~~

24 ~~(k) The board may endorse insurance coverage written~~
25 ~~exclusively for the purpose of protecting advance payment~~
26 ~~contracts, and the purchasers or beneficiaries thereof, which~~
27 ~~may be issued in the form of a group life policy and which is~~
28 ~~exempt from the provisions of part V of chapter 627.~~

29 (9) PREPAID COLLEGE PLANS.--At a minimum, the board
30 shall make advance payment contracts available for two
31 independent plans to be known as the community college plan

1 and the university plan. The board may also make advance
2 payment contracts available for a dormitory residence plan.

3 (a)1. Through the community college plan, the advance
4 payment contract shall provide prepaid registration fees for a
5 specified number of undergraduate semester credit hours not to
6 exceed the average number of hours required for the conference
7 of an associate degree. The cost of participation in the
8 community college plan shall be based primarily on the average
9 current and projected registration fees within the State
10 Community College System and the number of years expected to
11 elapse between the purchase of the plan on behalf of a
12 qualified beneficiary and the exercise of the benefits
13 provided in the plan by such beneficiary. Qualified
14 beneficiaries shall bear the cost of any laboratory fees
15 associated with enrollment in specific courses. Each qualified
16 beneficiary shall be classified as a resident for tuition
17 purposes, pursuant to s. 240.1201, regardless of his or her
18 actual legal residence.

19 2. Effective July 1, 1998, the board may provide
20 advance payment contracts for additional fees delineated in s.
21 240.35, not to exceed the average number of hours required for
22 the conference of an associate degree, in conjunction with
23 advance payment contracts for registration fees. The cost of
24 purchasing such fees shall be based primarily on the average
25 current and projected fees within the State Community College
26 System and the number of years expected to elapse between the
27 purchase of the plan on behalf of the beneficiary and the
28 exercise of benefits provided in the plan by such beneficiary.
29 Community college plan contracts purchased prior to July 1,
30 1998, shall be limited to the payment of registration fees as
31 defined in subsection (2).

1 (b)1. Through the university plan, the advance payment
2 contract shall provide prepaid registration fees for a
3 specified number of undergraduate semester credit hours not to
4 exceed the average number of hours required for the conference
5 of a baccalaureate degree. The cost of participation in the
6 university plan shall be based primarily on the current and
7 projected registration fees within the State University System
8 and the number of years expected to elapse between the
9 purchase of the plan on behalf of a qualified beneficiary and
10 the exercise of the benefits provided in the plan by such
11 beneficiary. Qualified beneficiaries shall bear the cost of
12 any laboratory fees associated with enrollment in specific
13 courses. Each qualified beneficiary shall be classified as a
14 resident for tuition purposes pursuant to s. 240.1201,
15 regardless of his or her actual legal residence.

16 2. Effective July 1, 1998, the board may provide
17 advance payment contracts for additional fees delineated in s.
18 240.235(1), for a specified number of undergraduate semester
19 credit hours not to exceed the average number of hours
20 required for the conference of a baccalaureate degree, in
21 conjunction with advance payment contracts for registration
22 fees. Such contracts shall provide prepaid coverage for the
23 sum of such fees, to a maximum of 45 percent of the cost of
24 registration fees. The costs of purchasing such fees shall be
25 based primarily on the average current and projected cost of
26 these fees within the State University System and the number
27 of years expected to elapse between the purchase of the plan
28 on behalf of the qualified beneficiary and the exercise of the
29 benefits provided in the plan by such beneficiary. University
30 plan contracts purchased prior to July 1, 1998, shall be

31

1 limited to the payment of registration fees as defined in
2 subsection (2).

3 (c) Through the dormitory residence plan, the advance
4 payment contract may provide prepaid housing fees for a
5 maximum of 10 semesters of full-time undergraduate enrollment
6 in a state university. Dormitory residence plans shall be
7 purchased in increments of 2 semesters. The cost of
8 participation in the dormitory residence plan shall be based
9 primarily on the average current and projected housing fees
10 within the State University System and the number of years
11 expected to elapse between the purchase of the plan on behalf
12 of a qualified beneficiary and the exercise of the benefits
13 provided in the plan by such beneficiary. Qualified
14 beneficiaries shall have the highest priority in the
15 assignment of housing within university residence halls.
16 Qualified beneficiaries shall bear the cost of any additional
17 elective charges such as laundry service or long-distance
18 telephone service. Each state university may specify the
19 residence halls or other university-held residences eligible
20 for inclusion in the plan. In addition, any state university
21 may request immediate termination of a dormitory residence
22 contract based on a violation or multiple violations of rules
23 of the residence hall or other university-held residences. In
24 the event that sufficient housing is not available for all
25 qualified beneficiaries, the board shall refund the purchaser
26 or qualified beneficiary an amount equal to the fees charged
27 for dormitory residence during that semester. If a qualified
28 beneficiary fails to be admitted to a state university or
29 chooses to attend a community college that operates one or
30 more dormitories or residency opportunities, or has one or
31 more dormitories or residency opportunities operated by the

1 community college direct-support organization, the qualified
2 beneficiary may transfer or cause to have transferred to the
3 community college, or community college direct-support
4 organization, the fees associated with dormitory residence.
5 Dormitory fees transferred to the community college or
6 community college direct-support organization may not exceed
7 the maximum fees charged for state university dormitory
8 residence for the purposes of this section, or the fees
9 charged for community college or community college
10 direct-support organization dormitories or residency
11 opportunities, whichever is less.

12 (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE
13 COLLEGES AND UNIVERSITIES.--

14 (a) A qualified beneficiary may apply a community
15 college plan, university plan, or dormitory residence plan
16 toward any eligible independent college or university. An
17 independent college or university which is located and
18 chartered in Florida, is not for profit, is accredited by the
19 Commission on Colleges of the Southern Association of Colleges
20 and Schools or the Accrediting Commission of the Association
21 of Independent Colleges and Schools, and which confers degrees
22 as defined in s. 246.021, shall be eligible for such
23 application. The board shall transfer, or cause to have
24 transferred, to the eligible independent college or university
25 designated by the qualified beneficiary an amount not to
26 exceed the redemption value of the advance payment contract
27 within a state postsecondary institution. In the event that
28 the cost of registration or housing fees at the independent
29 college or university is less than the corresponding fees at a
30 state postsecondary institution, the amount transferred shall
31 not exceed the actual cost of registration or housing fees. No

1 transfer authorized pursuant to this paragraph shall exceed
2 the number of semester credit hours or semesters of dormitory
3 residence contracted on behalf of a qualified beneficiary.

4 (b) A qualified beneficiary may apply the benefits of
5 an advance payment contract toward an eligible out-of-state
6 college or university. An out-of-state college or university
7 which is not for profit and is accredited by a regional
8 accrediting association, and which confers baccalaureate
9 degrees, shall be eligible for such application. The board
10 shall transfer, or cause to have transferred, an amount not to
11 exceed the redemption value of the advance payment contract or
12 the original purchase price plus 5 percent compounded
13 interest, whichever is less, after assessment of a reasonable
14 transfer fee. In the event that the cost of registration or
15 housing fees charged the qualified beneficiary at the eligible
16 out-of-state college or university is less than this
17 calculated amount, the amount transferred shall not exceed the
18 actual cost of registration or housing fees. Any remaining
19 amount shall be transferred in subsequent semesters until the
20 transfer value is depleted. No transfer authorized pursuant to
21 this paragraph shall exceed the number of semester credit
22 hours or semesters of dormitory residence contracted on behalf
23 of a qualified beneficiary.

24 (11)(6)(a) ADVANCE PAYMENT CONTRACTS; CONTENTS.--The
25 board shall construct advance payment contracts for
26 registration and may construct advance payment contracts for
27 dormitory residence as provided in accordance with the
28 ~~provisions of this section.~~ Advance payment contracts
29 constructed for the purposes of this section shall be exempt
30 from ~~the provisions of~~ chapter 517 and the Florida Insurance
31 Code. ~~The board may request assistance from the Department of~~

1 ~~Legal Affairs in the development of the advance payment~~
2 ~~contracts.~~ The contents of both Such contracts shall include,
3 but not be limited to, the following:
4 (a)1. The amount of the payment or payments and the
5 number of payments required from a purchaser on behalf of a
6 qualified beneficiary.
7 (b)2. The terms and conditions under which purchasers
8 shall remit payments, including, but not limited to, the date
9 or dates upon which each payment shall be due.
10 (c)3. Provisions for late payment charges and for
11 default.
12 (d)4. Provisions for penalty fees for withdrawals from
13 the fund.
14 (e)5. Except for an advance payment contract entered
15 into pursuant to subsection (22)~~paragraph (5)(j)~~, the name
16 and date of birth of the qualified beneficiary on whose behalf
17 the contract is drawn and the terms and conditions under which
18 another person may be substituted as the qualified
19 beneficiary.
20 (f)6. The name of any person who may terminate the
21 contract. The terms of the contract shall specify whether the
22 contract may be terminated by the purchaser, the qualified
23 beneficiary, a specific designated person, or any combination
24 of these persons.
25 (g)7. The terms and conditions under which a contract
26 may be terminated, modified, or converted, the name of the
27 person entitled to any refund due as a result of termination
28 of the contract pursuant to such terms and conditions, and the
29 amount of refund, if any, due to the person so named.
30
31

1 ~~8. The time limitations, if any, within which the~~
2 ~~qualified beneficiary must claim his or her benefits through~~
3 ~~the program.~~

4 ~~9. Other terms and conditions deemed by the board to~~
5 ~~be necessary or proper.~~

6 ~~(b) In addition to the provisions of paragraph (a), an~~
7 ~~advance payment contract for registration shall include, but~~
8 ~~not be limited to, the following:~~

9 ~~(h)1. The number of semester credit hours or semesters~~
10 ~~of dormitory residence contracted by the purchaser.~~

11 ~~(i)2. The state postsecondary system toward which the~~
12 ~~contracted credit hours or semesters of dormitory residence~~
13 ~~will be applied.~~

14 ~~(j)3. The assumption of a contractual obligation by~~
15 ~~the board to the qualified beneficiary to provide for a~~
16 ~~specified number of semester credit hours of undergraduate~~
17 ~~instruction at a state postsecondary institution, not to~~
18 ~~exceed the average number of credit hours required for the~~
19 ~~conference of the degree that corresponds to the plan~~
20 ~~purchased on behalf of the qualified beneficiary or to provide~~
21 ~~for a specified number of semesters of dormitory residence,~~
22 ~~not to exceed the number of semesters of full-time enrollment~~
23 ~~required for the conference of a baccalaureate degree.~~

24 ~~(k) Other terms and conditions deemed by the board to~~
25 ~~be necessary or proper.~~

26 ~~(c) In addition to the provisions of paragraph (a), an~~
27 ~~advance payment contract for dormitory residence shall~~
28 ~~include, but not be limited to, the following:~~

29 ~~1. The number of semesters of dormitory residence~~
30 ~~contracted by the purchaser.~~

31

1 ~~2. The assumption of a contractual obligation by the~~
2 ~~board to the qualified beneficiary to provide for a specified~~
3 ~~number of semesters of dormitory residence at a state~~
4 ~~university, not to exceed the maximum number of semesters of~~
5 ~~full-time enrollment required for the conference of a~~
6 ~~baccalaureate degree.~~

7 (12)(d) DURATION OF BENEFITS; ADVANCE PAYMENT

8 CONTRACT.--An advance payment contract may provide that
9 contracts which have not been terminated or the benefits
10 exercised within a specified period of time shall be
11 considered terminated. Time expended by a qualified
12 beneficiary as an active duty member of any of the armed
13 services of the United States shall be added to the period of
14 time specified pursuant to this subsection paragraph. No
15 purchaser or qualified beneficiary whose advance payment
16 contract is terminated pursuant to this subsection paragraph
17 shall be entitled to a refund. The board shall retain any
18 moneys paid by the purchaser for an advance payment contract
19 that has been terminated in accordance with this subsection
20 paragraph. Such moneys retained by the board are exempt from
21 chapter 717, and such retained moneys must be used by the
22 board to further the purposes of this section.

23 (13) REFUNDS.--

24 (a)(e)1. Except as provided in paragraphs (b) and (c),
25 ~~no refund provided pursuant to subparagraph (a)7. shall exceed~~
26 ~~the amount paid into the fund by the purchaser. In the event~~
27 ~~that an advance payment contract is converted from a~~
28 ~~university to a community college registration plan, the~~
29 ~~refund amount shall be reduced by the amount transferred to a~~
30 ~~community college on behalf of the qualified beneficiary.~~

1 ~~However, refunds may exceed the amount paid into the fund in~~
2 ~~the following circumstances:~~

3 **(b)**~~a.~~ If the beneficiary is awarded a scholarship, the
4 terms of which cover the benefits included in the advance
5 payment contracts, moneys paid for the purchase of the advance
6 payment contracts shall be returned to the purchaser in
7 semester installments coinciding with the matriculation by the
8 beneficiary in amounts of either the original purchase price
9 plus 5 percent compounded interest, or the current rates at
10 state postsecondary institutions, whichever is less.

11 **(c)**~~b.~~ In the event of the death or total disability of
12 the beneficiary, moneys paid for the purchase of advance
13 payment contracts shall be returned to the purchaser together
14 with 5 percent compounded interest, or the current rates at
15 state postsecondary institutions, whichever is less.

16 **(d)**~~c.~~ If an advance payment contract is converted from
17 one registration plan to a plan of lesser value ~~a university~~
18 ~~plan to a community college plan or a community college plus~~
19 ~~university plan, or is converted from a community college plus~~
20 ~~university plan to a community college plan, the amount~~
21 refunded shall not exceed the difference between the amount
22 paid for the original contract and the amount that would have
23 been paid for the contract to which the plan is converted had
24 the converted plan been purchased under the same payment plan
25 at the time the original advance payment contract was
26 executed.

27 **(e)**~~2.~~ No refund shall be authorized through an advance
28 payment contract for any school year partially attended but
29 not completed. For purposes of this section, a school year
30 partially attended but not completed shall mean any one
31 semester whereby the student is still enrolled at the

1 conclusion of the official drop-add period, but withdraws
2 before the end of such semester. If a beneficiary does not
3 complete a community college plan or university plan for
4 reasons other than specified in paragraph (c)~~subparagraph 1.~~,
5 the purchaser shall receive a refund of the amount paid into
6 the fund for the remaining unattended years of the advance
7 payment contract pursuant to rules promulgated by the board.

8 (14)(f) CONFIDENTIALITY OF ACCOUNT

9 INFORMATION.--Information that identifies the purchasers or
10 beneficiaries of any plan promulgated under this section and
11 their advance payment account activities is exempt from the
12 provisions of s. 119.07(1). However, the board may authorize
13 the program's records administrator to release such
14 information to a community college, college, or university in
15 which a beneficiary may enroll or is enrolled. Community
16 colleges, colleges, and universities shall maintain such
17 information as exempt from the provisions of s. 119.07(1).

18 ~~(7) At a minimum, the board shall make advance payment~~
19 ~~contracts available for two independent plans to be known as~~
20 ~~the community college plan and the university plan. The board~~
21 ~~may also make advance payment contracts available for a~~
22 ~~dormitory residence plan.~~

23 ~~(a) Through the community college plan, the advance~~
24 ~~payment contract shall provide prepaid registration fees for a~~
25 ~~specified number of undergraduate semester credit hours not to~~
26 ~~exceed the average number of hours required for the conference~~
27 ~~of an associate degree. The cost of participation in the~~
28 ~~community college plan shall be based primarily on the average~~
29 ~~current and projected registration fees within the State~~
30 ~~Community College System and the number of years expected to~~
31 ~~elapse between the purchase of the plan on behalf of a~~

1 ~~qualified beneficiary and the exercise of the benefits~~
2 ~~provided in the plan by such beneficiary. Qualified~~
3 ~~beneficiaries shall bear the cost of any laboratory fees~~
4 ~~associated with enrollment in specific courses. Each~~
5 ~~qualified beneficiary shall be classified as a resident for~~
6 ~~tuition purposes pursuant to s. 240.1201 regardless of his or~~
7 ~~her actual legal residence.~~

8 ~~(b) Through the university plan, the advance payment~~
9 ~~contract shall provide prepaid registration fees for a~~
10 ~~specified number of undergraduate semester credit hours not to~~
11 ~~exceed the average number of hours required for the conference~~
12 ~~of a baccalaureate degree. The cost of participation in the~~
13 ~~university plan shall be based primarily on the current and~~
14 ~~projected registration fees within the State University System~~
15 ~~and the number of years expected to elapse between the~~
16 ~~purchase of the plan on behalf of a qualified beneficiary and~~
17 ~~the exercise of the benefits provided in the plan by such~~
18 ~~beneficiary. Qualified beneficiaries shall bear the cost of~~
19 ~~any laboratory fees associated with enrollment in specific~~
20 ~~courses. In the event that a qualified beneficiary fails to~~
21 ~~be admitted to a state university or chooses to attend a~~
22 ~~community college, the qualified beneficiary may convert the~~
23 ~~average number of semester credit hours required for the~~
24 ~~conference of an associate degree from a university plan to a~~
25 ~~community college plan and may retain the remaining semester~~
26 ~~credit hours in the university plan or may request a refund~~
27 ~~for prepaid credit hours in excess of the average number of~~
28 ~~semester credit hours required for the conference of an~~
29 ~~associate degree pursuant to subparagraph (6)(a)7. Each~~
30 ~~qualified beneficiary shall be classified as a resident for~~

31

1 ~~tuition purposes pursuant to s. 240.1201 regardless of his or~~
2 ~~her actual legal residence.~~

3 ~~(c) Through the dormitory residence plan, the advance~~
4 ~~payment contract may provide prepaid housing fees for a~~
5 ~~maximum of 10 semesters of full-time undergraduate enrollment~~
6 ~~in a state university. Dormitory residence plans shall be~~
7 ~~purchased in increments of 2 semesters. The cost of~~
8 ~~participation in the dormitory residence plan shall be based~~
9 ~~primarily on the average current and projected housing fees~~
10 ~~within the State University System and the number of years~~
11 ~~expected to elapse between the purchase of the plan on behalf~~
12 ~~of a qualified beneficiary and the exercise of the benefits~~
13 ~~provided in the plan by such beneficiary. Qualified~~
14 ~~beneficiaries shall bear the cost of any additional elective~~
15 ~~charges such as laundry service or long-distance telephone~~
16 ~~service. Each state university may specify the residence~~
17 ~~halls or other university-held residences eligible for~~
18 ~~inclusion in the plan. In addition, any state university may~~
19 ~~request immediate termination of a dormitory residence~~
20 ~~contract based on a violation or multiple violations of rules~~
21 ~~of the residence hall or other university-held residences.~~
22 ~~Qualified beneficiaries shall have the highest priority in the~~
23 ~~assignment of housing within university residence halls. In~~
24 ~~the event that sufficient housing is not available for all~~
25 ~~qualified beneficiaries, the board shall refund the purchaser~~
26 ~~or qualified beneficiary an amount equal to the fees charged~~
27 ~~for dormitory residence during that semester. If a qualified~~
28 ~~beneficiary fails to be admitted to a state university or~~
29 ~~chooses to attend a community college that operates one or~~
30 ~~more dormitories or residency opportunities, or has one or~~
31 ~~more dormitories or residency opportunities operated by the~~

1 ~~community college direct-support organization, the qualified~~
2 ~~beneficiary may transfer or cause to have transferred to the~~
3 ~~community college, or community college direct-support~~
4 ~~organization, the fees associated with dormitory residence.~~
5 ~~Dormitory fees transferred to the community college or~~
6 ~~community college direct-support organization may not exceed~~
7 ~~the maximum fees charged for state university dormitory~~
8 ~~residence for the purposes of this section, or the fees~~
9 ~~charged for community college or community college~~
10 ~~direct-support organization dormitories or residency~~
11 ~~opportunities, whichever is less.~~

12 ~~(d) A qualified beneficiary may apply a community~~
13 ~~college plan, university plan, or dormitory residence plan~~
14 ~~toward any eligible independent college or university. An~~
15 ~~independent college or university which is located and~~
16 ~~chartered in Florida, is not for profit, is accredited by the~~
17 ~~Commission on Colleges of the Southern Association of Colleges~~
18 ~~and Schools or the Accrediting Commission of the Association~~
19 ~~of Independent Colleges and Schools, and which confers degrees~~
20 ~~as defined in s. 246.021 shall be eligible for such~~
21 ~~application. The board shall transfer or cause to have~~
22 ~~transferred to the eligible independent college or university~~
23 ~~designated by the qualified beneficiary an amount not to~~
24 ~~exceed the redemption value of the advance payment contract~~
25 ~~within a state postsecondary institution. In the event that~~
26 ~~the cost of registration or housing fees at the independent~~
27 ~~college or university is less than the corresponding fees at a~~
28 ~~state postsecondary institution, the amount transferred shall~~
29 ~~not exceed the actual cost of registration or housing fees.~~
30 ~~No transfer authorized pursuant to this paragraph shall exceed~~

31

1 ~~the number of semester credit hours or semesters of dormitory~~
2 ~~residence contracted on behalf of a qualified beneficiary.~~

3 ~~(e) A qualified beneficiary may apply the benefits of~~
4 ~~an advance payment contract toward an eligible out-of-state~~
5 ~~college or university. An out-of-state college or university~~
6 ~~which is not for profit, is accredited by a regional~~
7 ~~accrediting association, and which confers baccalaureate~~
8 ~~degrees shall be eligible for such application. The board~~
9 ~~shall transfer, or cause to have transferred, an amount not to~~
10 ~~exceed the redemption value of the advance payment contract or~~
11 ~~the original purchase price plus 5 percent compounded~~
12 ~~interest, whichever is less, after assessment of a reasonable~~
13 ~~transfer fee. In the event that the cost of registration or~~
14 ~~housing fees charged the qualified beneficiary at the eligible~~
15 ~~out-of-state college or university is less than this~~
16 ~~calculated amount, the amount transferred shall not exceed the~~
17 ~~actual cost of registration or housing fees. Any remaining~~
18 ~~amount shall be transferred in subsequent semesters until the~~
19 ~~transfer value is depleted. No transfer authorized pursuant~~
20 ~~to this paragraph shall exceed the number of semester credit~~
21 ~~hours or semesters of dormitory residence contracted on behalf~~
22 ~~of a qualified beneficiary.~~

23 ~~(8) The board shall solicit proposals for the~~
24 ~~operation of the Florida Prepaid Postsecondary Education~~
25 ~~Expense Program pursuant to s. 287.057, through which the~~
26 ~~board shall contract for the services of a records~~
27 ~~administrator, a trustee services firm, and one or more~~
28 ~~product providers.~~

29 ~~(a) The records administrator shall be the entity~~
30 ~~designated by the board to conduct the daily operations of the~~
31 ~~program on behalf of the board. The goals of the board in~~

1 ~~selecting a records administrator shall be to provide all~~
2 ~~purchasers with the most secure, well-diversified, and~~
3 ~~beneficially administered postsecondary education expense plan~~
4 ~~possible, to allow all qualified firms interested in providing~~
5 ~~such services equal consideration, and to provide such~~
6 ~~services to the state at no cost and to the purchasers at the~~
7 ~~lowest cost possible. Evaluations of proposals submitted~~
8 ~~pursuant to this paragraph shall include, but not be limited~~
9 ~~to, the following criteria:~~

10 1. ~~Fees and other costs charged to purchasers that~~
11 ~~affect account values or operational costs related to the~~
12 ~~program.~~

13 2. ~~Past experience in records administration and~~
14 ~~current ability to provide timely and accurate service in the~~
15 ~~areas of records administration, audit and reconciliation,~~
16 ~~plan communication, participant service, and complaint~~
17 ~~resolution.~~

18 3. ~~Sufficient staff and computer capability for the~~
19 ~~scope and level of service expected by the board.~~

20 4. ~~Financial history and current financial strength~~
21 ~~and capital adequacy to provide administrative services~~
22 ~~required by the board.~~

23 (b) ~~The trustee services firm shall be the entity~~
24 ~~designated by the board to select and supervise investment~~
25 ~~programs on behalf of the board. The goals of the board in~~
26 ~~selecting a trustee services firm shall be to obtain the~~
27 ~~highest standards of professional trustee services, to allow~~
28 ~~all qualified firms interested in providing such services~~
29 ~~equal consideration, and to provide such services to the state~~
30 ~~at no cost and to the purchasers at the lowest cost possible.~~
31 ~~The trustee services firm shall agree to meet the obligations~~

1 ~~of the board to qualified beneficiaries if moneys in the fund~~
2 ~~fail to offset the obligations of the board as a result of~~
3 ~~imprudent selection or supervision of investment programs by~~
4 ~~such firm. Evaluations of proposals submitted pursuant to~~
5 ~~this paragraph shall include, but not be limited to, the~~
6 ~~following criteria:~~

7 ~~1. Adequacy of trustee services for supervision and~~
8 ~~management of the program, including current operations and~~
9 ~~staff organization and commitment of management to the~~
10 ~~proposal.~~

11 ~~2. Capability to execute program responsibilities~~
12 ~~within time and regulatory constraints.~~

13 ~~3. Past experience in trustee services and current~~
14 ~~ability to maintain regular and continuous interactions with~~
15 ~~the board, records administrator, and product provider.~~

16 ~~4. The minimum purchaser participation assumed within~~
17 ~~the proposal and any additional requirements of purchasers.~~

18 ~~5. Adequacy of technical assistance and services~~
19 ~~proposed for staff.~~

20 ~~6. Adequacy of a management system for evaluating and~~
21 ~~improving overall trustee services to the program.~~

22 ~~7. Adequacy of facilities, equipment, and electronic~~
23 ~~data processing services.~~

24 ~~8. Detailed projections of administrative costs,~~
25 ~~including the amount and type of insurance coverage, and~~
26 ~~detailed projections of total costs.~~

27 ~~(c)1. The product providers shall be the entities~~
28 ~~designated by the board to develop investment portfolios on~~
29 ~~behalf of the board to achieve the purposes of this section.~~
30 ~~Product providers shall be limited to authorized insurers as~~
31 ~~defined in s. 624.09, banks as defined in s. 658.12,~~

1 ~~associations as defined in s. 665.012, authorized Securities~~
2 ~~and Exchange Commission investment advisers, and investment~~
3 ~~companies as defined in the Investment Company Act of 1940.~~
4 ~~All product providers shall have their principal place of~~
5 ~~business and corporate charter located and registered in the~~
6 ~~United States. In addition, each product provider shall agree~~
7 ~~to meet the obligations of the board to qualified~~
8 ~~beneficiaries if moneys in the fund fail to offset the~~
9 ~~obligations of the board as a result of imprudent investing by~~
10 ~~such provider. Each authorized insurer shall evidence superior~~
11 ~~performance overall on an acceptable level of surety in~~
12 ~~meeting its obligations to its policyholders and other~~
13 ~~contractual obligations. Only qualified public depositories~~
14 ~~approved by the State Insurance Commissioner and Treasurer~~
15 ~~shall be eligible for board consideration. Each investment~~
16 ~~company shall provide investment plans as specified within the~~
17 ~~request for proposals.~~

18 ~~2. The goals of the board in selecting a product~~
19 ~~provider company shall be to provide all purchasers with the~~
20 ~~most secure, well-diversified, and beneficially administered~~
21 ~~postsecondary education expense plan possible, to allow all~~
22 ~~qualified firms interested in providing such services equal~~
23 ~~consideration, and to provide such services to the state at no~~
24 ~~cost and to the purchasers at the lowest cost possible.~~

25 ~~Evaluations of proposals submitted pursuant to this paragraph~~
26 ~~shall include, but not be limited to, the following criteria:~~

27 ~~a. Fees and other costs charged to purchasers that~~
28 ~~affect account values or operational costs related to the~~
29 ~~program.~~

30 ~~b. Past and current investment performance, including~~
31 ~~investment and interest rate history, guaranteed minimum rates~~

1 ~~of interest, consistency of investment performance, and any~~
2 ~~terms and conditions under which moneys are held.~~

3 ~~c. Past experience and ability to provide timely and~~
4 ~~accurate service in the areas of records administration,~~
5 ~~benefit payments, investment management, and complaint~~
6 ~~resolution.~~

7 ~~d. Financial history and current financial strength~~
8 ~~and capital adequacy to provide products, including operating~~
9 ~~procedures and other methods of protecting program assets.~~

10 (15)(9) OBLIGATIONS OF BOARD; PAYMENT.--The state
11 shall agree to meet the obligations of the board to qualified
12 beneficiaries if moneys in the fund fail to offset the
13 obligations of the board. The Legislature shall appropriate to
14 the Florida Prepaid College Postsecondary Education Expense
15 Trust Fund the amount necessary to meet the obligations of the
16 board to qualified beneficiaries.

17 (16)(10) ASSETS OF THE FUND; EXPENDITURE
18 PRIORITY.--The assets of the fund shall be maintained,
19 invested, and expended solely for the purposes of this section
20 and shall not be loaned, transferred, or otherwise used by the
21 state for any purpose other than the purposes of this section.
22 This subsection shall not be construed to prohibit the board
23 from investing in, by purchase or otherwise, bonds, notes, or
24 other obligations of the state or an agency or instrumentality
25 of the state. Unless otherwise specified by the board, assets
26 of the fund shall be expended in the following order of
27 priority:

28 (a) To make payments to state postsecondary
29 institutions on behalf of qualified beneficiaries.

30 (b) To make refunds upon termination of advance
31 payment contracts.

1 (c) To pay the costs of program administration and
2 operations.

3 (17)~~(11)~~ EXEMPTION FROM CLAIMS OF CREDITORS.--Moneys
4 paid into or out of the fund by or on behalf of a purchaser or
5 qualified beneficiary of an advance payment contract made
6 under this section, which contract has not been terminated,
7 are exempt, as provided by s. 222.22, from all claims of
8 creditors of the purchaser or the beneficiary. Neither moneys
9 paid into the program nor benefits accrued through the program
10 may be pledged for the purpose of securing a loan.

11 (18)~~(12)~~ PAYROLL DEDUCTION AUTHORITY.--The state or
12 any state agency, county, municipality, or other political
13 subdivision may, by contract or collective bargaining
14 agreement, agree with any employee to remit payments toward
15 advance payment contracts through payroll deductions made by
16 the appropriate officer or officers of the state, state
17 agency, county, municipality, or political subdivision. Such
18 payments shall be held and administered in accordance with
19 this section.

20 (19)~~(13)~~ DISCLAIMER.--Nothing in this section shall be
21 construed as a promise or guarantee that a qualified
22 beneficiary will be admitted to a state postsecondary
23 institution or to a particular state postsecondary
24 institution, will be allowed to continue enrollment at a state
25 postsecondary institution after admission, or will be
26 graduated from a state postsecondary institution.

27 (20)~~(14)~~ PROGRAM TERMINATION.--In the event that the
28 state determines the program to be financially infeasible, the
29 state may discontinue the provision of the program. Any
30 qualified beneficiary who has been accepted by and is enrolled
31 or is within 5 years of enrollment in an eligible independent

1 college or university or state postsecondary institution shall
2 be entitled to exercise the complete benefits for which he or
3 she has contracted. All other contract holders shall receive
4 a refund, ~~pursuant to subparagraph (6)(a)7.~~, of the amount
5 paid in and an additional amount in the nature of interest at
6 a rate that corresponds, at a minimum, to the prevailing
7 interest rates for savings accounts provided by banks and
8 savings and loan associations.

9 (21) ANNUAL REPORT.--The board shall annually prepare
10 or cause to be prepared a report setting forth in appropriate
11 detail an accounting of the fund and a description of the
12 financial condition of the program at the close of each fiscal
13 year. Such report shall be submitted to the President of the
14 Senate, the Speaker of the House of Representatives, and
15 members of the State Board of Education on or before March 31
16 each year. In addition, the board shall make the report
17 available to purchasers of advance payment contracts. The
18 board shall provide to the Board of Regents and the State
19 Board of Community Colleges, by March 31 each year, complete
20 advance payment contract sales information, including
21 projected postsecondary enrollments of qualified
22 beneficiaries. The accounts of the fund shall be subject to
23 annual audits by the Auditor General or his or her designee.

24 (22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.--

25 (a) The board may establish a direct-support
26 organization which is:

27 1. A Florida corporation, not for profit, incorporated
28 under the provisions of chapter 617 and approved by the
29 Secretary of State.

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1 2. Organized and operated exclusively to receive,
2 hold, invest, and administer property and to make expenditures
3 to or for the benefit of the program.

4 3. An organization which the board, after review, has
5 certified to be operating in a manner consistent with the
6 goals of the program and in the best interests of the state.
7 Unless so certified, the organization may not use the name of
8 the program.

9 4. Subject to an annual postaudit by an independent
10 certified public accountant in accordance with rules
11 promulgated by the board. The annual audit shall be submitted
12 to the State Board of Administration and the Auditor General
13 for review. The State Board of Administration and Auditor
14 General shall have the authority to require and receive from
15 the organization or its independent auditor any detail or
16 supplemental data relative to the operation of the
17 organization. The identity of donors who desire to remain
18 anonymous shall be confidential and exempt from the provisions
19 of s. 119.07(1) and s. 24(a), Art. I of the State
20 Constitution, and such anonymity shall be maintained in the
21 auditor's report. Information received by the organization
22 that is otherwise confidential or exempt by law shall retain
23 such status. Any sensitive, personal information regarding
24 contract beneficiaries, including their identities, is exempt
25 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
26 the State Constitution.

27 (b) The chair and the executive director of the board
28 shall be directors of the direct-support organization and
29 shall jointly name three other individuals to serve as
30 directors of the organization.

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1 Section 2. Section 222.22, Florida Statutes, is
2 amended to read:

3 222.22 Exemption of moneys in the Prepaid
4 Postsecondary Education Expense Trust Fund from legal
5 process.--Moneys paid into or out of the Florida Prepaid
6 College ~~Postsecondary Education Expense~~ Trust Fund by or on
7 behalf of a purchaser or qualified beneficiary pursuant to an
8 advance payment contract made under s. 240.551, which contract
9 has not been terminated, are not liable to attachment,
10 garnishment, or legal process in the state in favor of any
11 creditor of the purchaser or beneficiary of such advance
12 payment contract.

13 Section 3. Subsection (2) of section 732.402, Florida
14 Statutes, is amended to read:

15 732.402 Exempt property.--

16 (2) Exempt property shall consist of:

17 (a) Household furniture, furnishings, and appliances
18 in the decedent's usual place of abode up to a net value of
19 \$10,000 as of the date of death. ~~and~~

20 (b) All automobiles held in the decedent's name and
21 regularly used by the decedent or members of the decedent's
22 immediate family as their personal automobiles.

23 (c) Florida Prepaid College Program contracts
24 purchased pursuant to s. 240.551.

25 Section 4. For the purpose of incorporating the
26 amendment to s. 732.402, Florida Statutes, in references
27 thereto, subsection (13) of section 731.201 and subsection (1)
28 of section 735.301, Florida Statutes, are reenacted to read:

29 731.201 General definitions.--Subject to additional
30 definitions in subsequent chapters that are applicable to
31

1 specific chapters or parts, and unless the context otherwise
2 requires, in this code and chapters 737, 738, and 744:

3 (13) "Exempt property" means the property of a
4 decedent's estate which is described in s. 732.402.

5 735.301 Disposition without administration.--

6 (1) No administration shall be required or formal
7 proceedings instituted upon the estate of a decedent leaving
8 only personal property exempt under the provisions of s.
9 732.402, personal property exempt from the claims of creditors
10 under the Constitution of Florida, and nonexempt personal
11 property the value of which does not exceed the sum of the
12 amount of preferred funeral expenses and reasonable and
13 necessary medical and hospital expenses of the last 60 days of
14 the last illness.

15 Section 5. This act shall take effect July 1, 1998.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 SB 2214

20 The committee substitute will not authorize payments into the
21 program to be counted as family assets rather than student
22 assets in calculating eligibility for financial aid. It does
23 not contain a prohibition against unlawful representation
24 using the program's name.
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