

By the Committee on Workforce & Technical Skills and
Representatives Mayfield, Bennett, Cantens, Crow, Brummer,
Sorensen, Barreiro, Bowen and Evers

1 A bill to be entitled
2 An act relating to the State Board of Nonpublic
3 Career Education; amending s. 246.203, F.S.,
4 relating to definitions; including flight
5 training schools and fixed based operators in
6 the definition of "school" for purposes of
7 regulation and licensure; creating s. 246.2155,
8 F.S.; requiring each flight training school and
9 fixed based operator licensed by the board to
10 collect and provide to the board specified
11 information about its students; requiring
12 specified scores on the Test of English as a
13 Foreign Language; amending s. 246.215, F.S.;
14 clarifying language relating to licensure by
15 the state board; amending s. 246.216, F.S.;
16 removing an exemption from licensure for a
17 flight training school or fixed based operator
18 regulated by the Federal Aviation
19 Administration or other agency; reenacting s.
20 246.201 and ss. 246.205-246.213 and ss.
21 246.217-246.231, F.S., relating to the
22 regulation and licensure of nonpublic
23 postsecondary career schools by the State Board
24 of Nonpublic Career Education, to incorporate
25 the amendments to ss. 246.203, 246.215, and
26 246.216, F.S., and the creation of s. 246.2155,
27 F.S.; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 246.203, Florida Statutes, is
2 amended to read:

3 246.203 Definitions; ss. 246.201-246.231.--As used in
4 ss. 246.201-246.231, unless the context otherwise requires:

5 (1) "School" means any nonpublic postsecondary
6 noncollegiate career educational institution, association,
7 corporation, person, partnership, or organization of any type,
8 including any flight training school or fixed based operator,
9 that:

10 (a) Offers to provide or provides any postsecondary
11 program of instruction, course, or class through the student's
12 personal attendance, in the presence of an instructor, in a
13 classroom, clinical, or other practicum setting or through
14 correspondence or other distance learning; and

15 (b) Represents, directly or by implication, that the
16 instruction will qualify the student for employment in any
17 occupation whose practice in this state does not require a
18 degree, as defined in s. 246.021(5); and

19 (c) Receives remuneration from the student or any
20 other source on the enrollment of a student or on the number
21 of students enrolled; or

22 (d) Offers to award or awards a diploma, as defined in
23 subsection (6), regardless of whether or not it engages in the
24 activities described in paragraph (a), paragraph (b), or
25 paragraph (c).

26 (2) "Business, management, trade, technical, or career
27 education" means any instruction which prepares a person for
28 employment in an occupation listed in the latest dictionary of
29 occupational titles issued by the United States Department of
30 Labor or declared by that department to be eligible for such
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1 listing or which is indicated by a school as leading to
2 employment in an occupation.

3 (3) "Out-of-state school" or "school outside the
4 state" means any school for which the place of instruction or
5 legal place of residence or the place of evaluation of
6 instruction or work by correspondence is not within the legal
7 boundaries of the state.

8 (4) "Instruction" means the dissemination of knowledge
9 or practice which signifies, purports to signify, or is
10 generally taken to signify the preparation or education of a
11 person generally or specifically for further understanding,
12 study, skill, or training.

13 (5) "Agent" means a person employed by or representing
14 a school within or outside the state to procure Florida
15 students, enrollees, or subscribers by solicitation in any
16 form, made at a place or places other than the office or legal
17 place of business of a school.

18 (6) "Diploma" means a specialized associate degree,
19 certificate, transcript, report, document, or title or
20 designation, mark, appellation, or series of letters, numbers,
21 or words which signifies, purports to signify, or is generally
22 taken to signify satisfactory completion of the requirements
23 of an educational, technical, or vocational program of study,
24 training, or course except degrees as defined in s. 246.021.

25 (7) "Board" means the State Board of Nonpublic Career
26 Education.

27 (8) "Governmental," refers to schools provided,
28 operated, and supported by federal, state, or county
29 governments or any of their political subdivisions.
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1 (9) "Accreditation" means accredited status awarded to
2 a school by an accrediting agency which is recognized by the
3 United States Department of Education.

4 Section 2. Section 246.2155, Florida Statutes, is
5 created to read:

6 246.2155 Flight training schools and fixed based
7 operators.--

8 (1)(a) Each flight training school and fixed based
9 operator required to be licensed by the State Board of
10 Nonpublic Career Education pursuant to ss. 246.201-246.231
11 shall collect and provide to the board copies of the following
12 documents on all students as part of the licensing process:

13 1. Visa: M-1 (1-year student visa); J-1 (2-year
14 exchange visitor visa); and F-1 (4-year student visa).

15 2. Passport issue page, date-stamped page of entry,
16 and photograph identification.

17 3. Stamped I-20 MN form (Certificate of Eligibility
18 for an M-1 visa) or a stamped IAP-66 form (Certificate of
19 Eligibility for a J-1 visa).

20 4. I-94 Department of Justice Immigration and
21 Naturalization Service Arrival and Departure Record Card.

22 5. Federal Aviation Administration Medical Certificate
23 and, if applicable, Flight Certificate.

24 6. Test scores on the Test of English as a Foreign
25 Language (TOEFL) required pursuant to subsection (2).

26 7. Official birth certificate.

27 8. Driver's license.

28 9. Social security card.

29 (b) Each international student with a visa shall
30 provide the flight training school or fixed based operator all
31 documentation provided to the visa issuing office

1 demonstrating the student's ability to cover the expenses for
2 flight training instruction.

3 (2) In order to determine that the English proficiency
4 of each student is adequate, each flight training school and
5 fixed based operator shall require of its students, except for
6 students whose native language is English, a score of 550 or
7 above on the Test of English as a Foreign Language (TOEFL).

8 Section 3. Section 246.215, Florida Statutes, is
9 amended to read:

10 246.215 License required.--

11 (1) A No nonpublic postsecondary career school defined
12 in s. 246.203(1) must be licensed by the State Board of
13 Nonpublic Career Education and shall not ~~required to be~~
14 licensed pursuant to ss. 246.201-246.231 shall be operated or
15 established within the state until such school makes
16 application and obtains a license or authorization from the
17 board. Each nonpublic school that seeks licensure shall first
18 submit articles of incorporation to the Department of State.
19 After the Department of State approves such articles and
20 verifies that the articles indicate the corporation is a
21 postsecondary school within the meaning and intent of s.
22 246.203, the corporation shall apply for licensure by the
23 board within 60 days of approval of the articles. Department
24 of State approval of the articles of incorporation shall not
25 constitute authorization to operate the nonpublic school. The
26 Department of State shall immediately transmit approved
27 articles of incorporation for nonpublic schools to the board.

28 (2) No agent shall solicit any prospective student for
29 enrollment in a nonpublic school until both the agent and the
30 school are appropriately licensed or otherwise authorized by
31 the board.

1 (3) No nonpublic postsecondary career school required
2 to be licensed pursuant to ss. 246.201-246.231 shall advertise
3 in any manner until such school is granted an appropriate
4 license by the board, nor shall any licensed school advertise
5 in any manner while such school is under an injunction against
6 operating, soliciting students, or offering diplomas.

7 (4) No license granted by the board shall be
8 transferable to another nonpublic postsecondary career school
9 or to another agent, nor shall school licensure transfer upon
10 a change in ownership of the institution.

11 (5) Each license granted by the board shall delineate
12 the specific nondegree programs that the nonpublic school is
13 authorized to offer. No such school shall conduct a program
14 unless express authority is granted in its license.

15 (6) A diploma program offered by a nonpublic junior
16 college, college, or university must be licensed by the board,
17 notwithstanding the fact that such institution is concurrently
18 subject to the jurisdiction of the State Board of Independent
19 Colleges and Universities, if such program does the following:

20 (a) The program qualifies a student for employment or
21 engagement in an occupation whose practice in this state does
22 not require a degree.

23 (b) The program awards a diploma, as defined in s.
24 246.203(6), for successful completion, including any program
25 that is organized to give students an option of exiting at a
26 specified point and receiving a diploma, or continuing and
27 receiving a degree, as defined in s. 246.021(5).

28 Section 4. Section 246.216, Florida Statutes, is
29 amended to read:

30 246.216 Exemption from licensure.--
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1 (1) A person or entity which otherwise fits the
2 definition of school in s. 246.203(1) shall be exempt from
3 licensure if it meets the criteria specified in this section
4 and applies to the board for a statement of exemption. The
5 board shall issue a statement of exemption if it determines,
6 based on all available information, that the applicant meets
7 the following criteria:
8 (a) The entity is a church or religious organization
9 whose programs of instruction include:
10 1. A religious modifier in the title of the program,
11 immediately preceding the name of the occupation to which the
12 instruction relates, and in the title of the diploma.
13 2. No representation, directly or by implication, that
14 individuals who successfully complete the program will be
15 qualified to be employed in the field to which the training
16 relates by an employer other than a church or religious
17 organization.
18 3. No students who receive state or federal financial
19 aid to pursue the program;
20 (b) The person or entity, except for a flight training
21 school or a fixed based operator, is regulated by an ~~the~~
22 ~~Federal Aviation Administration, another~~ agency of the Federal
23 Government, or an agency of the state whose regulatory laws
24 are similar in nature and purpose to those of the board and
25 require minimum educational standards, for at least
26 curriculum, instructors, and academic progress and provide
27 protection against fraudulent, deceptive, and substandard
28 education practices;
29 (c) The person or entity offers only examination
30 preparation courses provided that:
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1 1. A diploma as defined in s. 246.203(6) is not
2 awarded.

3 2. The courses do not include state licensing
4 examinations in occupations for which state laws do not
5 require a licensee to have a bachelor's degree or higher
6 academic or professional degree;

7 (d) The person or entity is:

8 1. An employer who offers training and trains only its
9 own bona fide employees;

10 2. A trade or professional association or a group of
11 employers in the same or related business who in writing agree
12 to offer training and to train only individuals who are bona
13 fide employees of an employer who is a member of the
14 association or a party to the written agreement; or

15 3. An independent contractor engaged by any of the
16 foregoing by written contract to provide the training on its
17 behalf exclusively to individuals who are selected by the
18 employer, association, or group which engaged the contractor
19 and who are bona fide employees thereof.

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21 For purposes of this paragraph, a bona fide employee is an
22 individual who works for salary or wages paid by the employer
23 in at least the minimum amount required by law;

24 (e) The entity is a labor union or group of labor
25 unions which offers training to, and trains only, individuals
26 who are dues-paying members of a participating labor union; or
27 the person or entity is an independent contractor engaged by
28 the labor union or group of labor unions, by written contract,
29 to provide the training on its behalf exclusively to
30 individuals who are selected by the labor union or group of
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1 labor unions which engaged the contractor and who are
2 dues-paying members thereof;

3 (f) The person or entity offers only continuing
4 education programs to individuals who engage in an occupation
5 or profession whose practitioners are subject to licensure,
6 certification, or registration by a state agency which
7 recognizes the programs for continuing education purposes and
8 provides a written statement of such recognition; or

9 (g) The person or entity offers a program of
10 instruction whose objective is not occupational, but is
11 avocational and only for personal enrichment and which:

12 1. Prior to enrollment, gives to each enrollee, and
13 maintains a record copy of, a written statement which states
14 substantially the following: "This program is not designed or
15 intended to qualify its participants and graduates for
16 employment in (the field to which the training pertains). It
17 is intended solely for the avocation, personal enrichment, and
18 enjoyment of its participants."

19 2. Makes no other verbal or written statements which
20 negate the written statement required in subparagraph 1. by
21 stating or implying that persons who enroll in or complete the
22 program have any more substantial likelihood of getting
23 employment in the field to which the training pertains than
24 persons who do not.

25 3. Maintains and makes available to the board, upon
26 request, records which demonstrate that each enrollee received
27 the statement required by subparagraph 1. prior to
28 enrollment.

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30 To be eligible for the statement of exemption, the applicant
31 must maintain records documenting its qualification for

1 exemption. A person or entity which is exempt pursuant to this
2 subsection and which is also a licensee for programs which do
3 not qualify for exemption may not include in the catalog,
4 contract, or advertising relating to its licensed program any
5 reference to its unlicensed programs. This restriction does
6 not apply to a licensee which voluntarily becomes licensed to
7 offer programs which would otherwise qualify for exemption.

8 (2) The board shall revoke a statement of exemption if
9 it determines, based on all available information, that the
10 entity does not meet the criteria required in subsection (1)
11 because of the following:

12 (a) There has been a material change in circumstances
13 or in the law;

14 (b) The statement was erroneously issued as a result
15 of false or misleading information provided by the applicant
16 or other source;

17 (c) There was a misunderstanding by the board of the
18 information which it had considered; or

19 (d) New information has been received.
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21 Probable cause proceedings do not apply to the foregoing board
22 decisions.

23 (3) The board may invoke the remedies provided in s.
24 246.227 when no application for a statement of exemption is
25 pending; in conjunction with, or subsequent to, its notice of
26 denial of an application; or in conjunction with, or
27 subsequent to, its notice of revocation. The filing of a civil
28 action pursuant to s. 246.227 shall have the effect of
29 suspending administrative proceedings under this section
30 unless the board takes a voluntary dismissal without prejudice
31 in a judicial case. An order of the court which determines or

1 renders moot an issue presented in suspended administrative
2 proceedings shall be grounds for dismissal of the
3 administrative proceeding as to that issue.

4 Section 5. For the purpose of incorporating the
5 amendments to ss. 246.203, 246.215, and 246.216, Florida
6 Statutes, and the creation of s. 246.2155, Florida Statutes,
7 ss. 246.201, 246.205, 246.207, 246.211, 246.213, 246.217,
8 246.219, 246.220, 246.222, 246.2235, 246.225, 246.226,
9 246.2265, 246.227, 246.228, 246.229, and 246.231, Florida
10 Statutes, are reenacted to read:

11 246.201 Legislative intent.--

12 (1) Sections 246.201-246.231 shall provide for the
13 protection of the health, education, and welfare of the
14 citizens of Florida and shall facilitate and promote the
15 acquisition of a minimum satisfactory career education by all
16 the citizens of this state. It shall be in the interest of,
17 and essential to, the public health and welfare that the state
18 create the means whereby all nonpublic postsecondary career
19 schools as defined in s. 246.203(1) shall satisfactorily meet
20 minimum educational standards and fair consumer practices.

21 (2) A common practice in our society is to use
22 diplomas and degrees for many purposes. Some of these
23 purposes are: for employers to judge the qualifications of
24 prospective employees; for public and nonpublic professional
25 groups, vocational groups, educational agencies, governmental
26 agencies, and educational institutions to determine the
27 qualifications for admission to, and continuation of,
28 educational goals, occupational goals, professional
29 affiliations, or occupational affiliations; and for public and
30 professional assessment of the extent of competency of
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1 individuals engaged in a wide range of activities within our
2 society.

3 (3) Because of the common use of diplomas and degrees,
4 the minimum legal requirements provided by ss. 246.201-246.231
5 for the establishment and operation of nonpublic postsecondary
6 career schools shall protect the individual student from
7 deceptive, fraudulent, or substandard education; protect such
8 schools; and protect the citizens of Florida holding diplomas
9 or degrees.

10 246.205 State Board of Nonpublic Career Education.--

11 (1) There shall be established in the Department of
12 Education a State Board of Nonpublic Career Education. The
13 board shall be assigned to the Department of Education only
14 for the purpose of payroll, procurement, and related
15 administrative functions which shall be exercised by the head
16 of the department. The board shall independently exercise the
17 other powers, duties, and functions prescribed by law. The
18 board shall include nine members, appointed by the Governor as
19 follows:

20 (a) One from a business school;
21 (b) One from a technical school;
22 (c) One from a home study school;
23 (d) One from a nonpublic school;
24 (e) Four from business and industry; and
25 (f) An administrator of vocational-technical education
26 from a public school district or community college.

27 (2) Each of the members shall be appointed by the
28 Governor, subject to confirmation by the Senate, for a term of
29 3 years. Of the original members appointed by the Governor,
30 three shall serve for terms of 1 year, three shall serve for
31 terms of 2 years, and three shall serve for terms of 3 years.

1 Of the appointive members from the nonpublic postsecondary
2 career schools, each shall have occupied executive or
3 managerial positions in a nonpublic postsecondary career
4 school in this state for at least 5 years. All members shall
5 be residents of this state. In the event of a vacancy on the
6 board caused other than by the expiration of a term, the
7 Governor shall appoint a successor to serve the unexpired
8 term.

9 (3) The board shall meet at the call of its chair, at
10 the request of a majority of its membership, at the request of
11 the department, or at such times as may be prescribed by its
12 rules.

13 (4) Board members shall be paid travel and subsistence
14 expenses as provided by law while performing their duties
15 under this act.

16 (5) Each board member is accountable to the Governor
17 for the proper performance of the duties of his or her office.
18 The Governor shall cause to be investigated any complaint or
19 unfavorable report received concerning an action of the board
20 or any member and shall take appropriate action thereon. The
21 Governor may remove from office any member for malfeasance,
22 misfeasance, neglect of duty, incompetence, permanent
23 inability to perform official duties, or pleading guilty or
24 nolo contendere to, or being found guilty of, a criminal
25 offense.

26 246.207 Powers and duties of board.--

27 (1) The board shall:

28 (a) Hold such meetings as are necessary to administer
29 efficiently the provisions of ss. 246.201-246.231.

30 (b) Select annually a chairperson and a vice
31 chairperson.

- 1 (c) Make rules for its own government.
- 2 (d) Prescribe and recommend to the State Board of
3 Education rules to implement ss. 246.201-246.231.
- 4 (e) Administer ss. 246.201-246.231 and execute such
5 rules adopted pursuant thereto by the State Board of Education
6 for the establishment and operation of nonpublic postsecondary
7 career schools as defined in s. 246.203(1).
- 8 (f) Appoint, on the recommendation of its chairperson,
9 executives, deputies, clerks, and employees of the board.
- 10 (g) Maintain a record of its proceedings.
- 11 (h) Cooperate with other state and federal agencies in
12 administering ss. 246.201-246.231.
- 13 (i) Prepare an annual budget.
- 14 (j) Transmit all fees, donations, and other receipts
15 of money to the Institutional Assessment Trust Fund.
- 16 (k) Transmit to the Governor, the Speaker of the House
17 of Representatives, the President of the Senate, the minority
18 leader of the Senate, and the minority leader of the House of
19 Representatives on July 1, 1987, and each succeeding year an
20 annual report which shall include, but not be limited to:
- 21 1. A detailed accounting of all funds received and
22 expended.
- 23 2. The number of complaints received and investigated,
24 by type.
- 25 3. The number of findings of probable cause.
- 26 4. A description of disciplinary actions taken, by
27 statutory classification.
- 28 5. A description of all administrative hearings and
29 court actions.
- 30 6. A description of the board's major activities
31 during the previous year.

1 (1) Assure that no school that has met board
2 requirements established by law or rule be made to operate
3 without a current license due to scheduling of board meetings
4 or application procedures for license renewal.
5 (m) Cause to be investigated criminal justice
6 information, as defined in s. 943.045, for each owner,
7 administrator, and agent employed by a school applying for
8 licensure or renewal of licensure.
9 (n) Serve as a central agency for collection and
10 distribution of current information regarding institutions
11 licensed by the board.
12 1. The data collected by the board shall include
13 information relating to the school administration, calendar
14 system, admissions requirements, student costs and financial
15 obligations, financial aid information, refund policy,
16 placement services, number of full-time and part-time faculty,
17 student enrollment and demographic figures, programs, and
18 off-campus programs. Other information shall be collected in
19 response to specific needs or inquiries. Financial information
20 of a strictly proprietary, commercial nature is excluded from
21 this requirement.
22 2. The data collected by the board must also include
23 the data for the career education program evaluation reports
24 required by s. 239.233 for each school that chooses to provide
25 public information under s. 239.245.
26 3. The board shall provide to each participating
27 institution annually the format, definitions, and instructions
28 for submitting the required information.
29 4. The data submitted by each institution shall be
30 accompanied by a letter of certification signed by the chief
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1 administrative officer of the institution, affirming that the
2 information submitted is accurate.

3 5. A summary of the data collected by the board shall
4 be included in the annual report to the Governor, the Speaker
5 of the House of Representatives and the President of the
6 Senate, the minority leader of the Senate, and the minority
7 leader of the House of Representatives. The information
8 collected by the board may also be used by the Department of
9 Education for such purposes as statewide master planning,
10 state financial aid programs, and publishing directories, by
11 the Legislature, and to respond to consumer inquiries received
12 by the board.

13 (o) Establish and publicize the procedures for
14 receiving and responding to complaints from students, faculty,
15 and others about schools or programs licensed by the board and
16 shall keep records of such complaints in order to determine
17 their frequency and nature for specific institutions of higher
18 education. With regard to any written complaint alleging a
19 violation of any provision of ss. 246.201-246.231 or any rule
20 promulgated pursuant thereto, the board shall periodically
21 notify, in writing, the person who filed the complaint of the
22 status of the investigation, whether probable cause has been
23 found, and the status of any administrative action, civil
24 action, or appellate action, and if the board has found that
25 probable cause exists, it shall notify, in writing, the party
26 complained against of the results of the investigation and
27 disposition of the complaint. The findings of the probable
28 cause panel, if a panel is established, shall not be disclosed
29 until the information is no longer confidential.

30 (2) The board may:

31 (a) Sue or be sued.

1 (b) Enter into contracts with the Federal Government,
2 other departments of the state, or individuals.

3 (c) Receive bequests and gifts, which shall be used
4 only for the purpose stated by the person making such bequest.

5 (d) Appoint committees to assist in developing
6 standards or in determining the qualifications which shall be
7 met in a given field of endeavor.

8 (e) Issue a license to any school subject to ss.
9 246.201-246.231 which is exempted from the licensing and
10 regulatory requirements of ss. 246.201-246.231, upon voluntary
11 application for such license and upon payment of the
12 appropriate fee as set forth in s. 246.219.

13 (f) With the approval of the State Board of Education,
14 establish and operate a branch office in the southeastern part
15 of the state where the concentration of licensed schools
16 renders such an office economically feasible.

17 (g) Establish and administer a statewide,
18 fee-supported financial program through which funds will be
19 available to complete the training of a student who enrolls in
20 a nonpublic school that terminates a program or ceases
21 operation before the student has completed his or her program
22 of study or for repayment of a loan made under the federal
23 Family Educational Loan Program. The financial program is
24 named the Student Protection Fund. The board is authorized to
25 assess a fee from the institutions within its jurisdiction for
26 such purpose. The board shall assess a licensed school an
27 additional fee for its eligibility for the Student Protection
28 Fund. Any school that participates in the federal Family
29 Educational Loan Program is eligible and must pay the
30 additional fee. If a licensed school terminates a program
31 before all students complete it, the board shall also assess

1 that school a fee adequate to pay the full cost to the Student
2 Protection Fund of repaying the federal loans of its students.
3 The fund shall consist entirely of fees assessed to licensed
4 schools and shall not be funded under any circumstances by
5 public funds, nor shall the board make payments or be
6 obligated to make payments in excess of the assessments
7 actually received from licensed schools and deposited in the
8 Institutional Assessment Trust Fund to the credit of the
9 Student Protection Fund. The board shall identify students
10 who may be eligible for repayment of their loans and notify
11 them in writing of the availability of the Student Protection
12 Fund. At each board meeting, the board shall consider the
13 need for and shall make required assessments, shall review the
14 collection status of unpaid assessments and take all necessary
15 steps to collect them, and shall review all moneys in the fund
16 and expenses incurred since the last reporting period. This
17 review must include administrative expenses, moneys received,
18 and payments made to students or to lending institutions.
19 Staff of the board must immediately inform the board upon
20 learning of the closing of a licensed school or the
21 termination of a program which could expose the fund to
22 liability. The Student Protection Fund must be actuarially
23 sound, periodically audited, and reviewed to determine if
24 additional fees must be charged to schools eligible to
25 participate in the fund. The board may authorize pro rata
26 payments from the fund directly to the lender. The pro rata
27 refund shall be computed as outlined in the Higher Education
28 Act of 1965.

29 246.211 Expenditures.--The State Treasurer shall pay
30 out all moneys and funds provided for in ss. 246.201-246.231
31 upon proper warrant issued by the Comptroller drawn upon

1 vouchers approved by the board for all lawful purposes
2 necessary for the administration of ss. 246.201-246.231.

3 246.213 Power of State Board of Education.--

4 (1) The State Board of Education, acting on the
5 recommendation of the State Board of Nonpublic Career
6 Education, shall adopt minimum standards for schools and other
7 rules pursuant to ss. 120.536(1) and 120.54 to implement ss.
8 246.201-246.231.

9 (2)(a) The minimum educational standards for the
10 licensing of schools shall include, but not be limited to:
11 name of school, purpose, administrative organization,
12 educational program and curricula, finances, financial
13 stability, faculty, library, student personnel services,
14 physical plant and facilities, publications, and disclosure
15 statements about the status of the institution in relation to
16 professional certification and licensure.

17 (b) Rules of the State Board of Education shall
18 require that nonpublic schools administer an entry-level test
19 of basic skills to each student who enrolls in a nondegree
20 program of at least 450 clock hours, or the credit hour
21 equivalent, which purports to prepare such student for
22 employment. The State Board of Nonpublic Career Education
23 shall designate examinations authorized for use for
24 entry-level testing purposes. State Board of Education rules
25 shall require that applicable schools provide students who are
26 deemed to lack a minimal level of basic skills with a
27 structured program of basic skills instruction. No student
28 shall be granted a diploma, as defined in s. 246.203, until he
29 or she has demonstrated mastery of basic skills. Exceptional
30 students, as defined in s. 228.041, may be exempted from the
31 provisions of this paragraph. The State Board of Education

1 shall identify means through which students who are capable of
2 demonstrating mastery of basic skills may be exempted from the
3 provisions of this paragraph.

4 (c) The State Board of Nonpublic Career Education may
5 request that schools within its jurisdiction provide the board
6 all documents associated with institutional accreditation.
7 The board shall solicit from schools which provide such
8 documents only such additional information undisclosed in the
9 accreditation documents provided. The board may conduct a
10 comprehensive study of a school that fails to provide all
11 documents associated with its institutional accreditation.
12 The cost of such study shall be borne by the institution.
13 Standards imposed by the board shall not be constrained in
14 quality or quantity to those imposed by the respective
15 accrediting body.

16 (d) The State Board of Nonpublic Career Education
17 shall recommend to the State Board of Education minimum
18 placement standards for institutions that conduct programs
19 that prepare students for employment.

20 (3) The minimum requirements for the licensing of
21 agents shall include: name, residential and business
22 addresses, background training, institution or institutions to
23 be represented, and demonstrated knowledge of statutes and
24 rules related to the authority granted to agents and the
25 limitations imposed upon such authority. No employee of a
26 nonpublic school shall solicit prospective students for
27 enrollment in such school until that employee is licensed by
28 the State Board of Nonpublic Career Education as an agent.

29 (4) The State Board of Nonpublic Career Education
30 shall adopt criteria for specialized associate degrees,
31 diplomas, certificates, or other educational credentials that

1 will be recognized in licensed schools. The State Board of
2 Nonpublic Career Education shall adopt a common definition for
3 each credential. To determine the level of a nonpublic
4 institution's vocational program or to establish criteria for
5 a specialized degree, the board shall use procedures developed
6 pursuant to s. 239.205, which requires the Department of
7 Education to determine the level of each public degree career
8 education program.

9 246.217 License period and renewals.--

10 (1) All license applications shall be submitted on
11 notarized forms prepared and furnished by the board.

12 (2) Each new nonpublic school approved by the board
13 shall be issued a temporary or provisional license valid for a
14 maximum of 1 year. Staff of the board shall conduct a site
15 visit and evaluation within the first 6 months of operation of
16 an institution issued such a license.

17 (3)(a) A nonpublic school that seeks renewal of
18 licensure upon completion of the term of the temporary or
19 provisional license may apply for a regular license. The
20 board shall adopt rules for the provision of regular annual
21 licensure and regular biennial licensure. The requirements
22 for each such form of regular licensure shall be incorporated
23 into the rules of the board.

24 (b) The board may renew a provisional or regular
25 license as a provisional license for specific purposes
26 enumerated by the board. Redesignation from regular to
27 provisional licensure shall not require disciplinary
28 proceedings pursuant to s. 246.226.

29 (4)(a) The board may extend a license for a maximum of
30 4 months. The fees for any license so extended shall be
31 prorated. The board may also extend a provisional license for

1 a maximum of 1 additional year to an institution that cannot
2 comply with licensure requirements based on extenuating
3 circumstances. The affected institution shall be responsible
4 for demonstrating that it has made a good faith effort to meet
5 the requirements of the board. The board shall be responsible
6 for determining institutional compliance with such
7 requirements.

8 (b) A license which is in effect at the time that a
9 nonpublic school is served with an administrative complaint or
10 a notice of denial of license renewal shall be deemed to
11 remain in effect, subject to s. 246.2265, until final agency
12 action is taken. If an administrative complaint is served at
13 the time the application for license renewal is filed with the
14 board, the license shall be deemed to remain in effect,
15 subject to s. 246.2265, until final agency action is taken.

16 (5) The board shall adopt rules regarding amended
17 licensure for institutions that seek to modify existing
18 courses or programs of study, to add one or more new courses
19 or programs of study, or to expand educational programs. A
20 nonpublic school licensed pursuant to ss. 246.201-246.231
21 shall receive approval for an amended license prior to
22 implementation of such modification.

23 246.219 License fees.--

24 (1) Each initial application for a license to operate
25 a nonpublic postsecondary career school shall be accompanied
26 by a license fee of not less than \$500, and each application
27 for the renewal of such license shall be accompanied by an
28 annual license fee of at least \$300, provided that the fee for
29 a biennial license shall be at least \$600. A fee shall be
30 charged for a supplementary application for the approval of
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1 any additional field or course of instruction. Such fees
2 shall be delineated, by rule, by the board.

3 (2) Fees for agents representing schools shall be at
4 least \$50 for the initial license and at least \$25 for renewal
5 of the license, excluding the cost of obtaining criminal
6 justice information. Applicants shall bear the cost of
7 obtaining such information.

8 (3) The board shall adopt rules establishing a charge
9 of at least \$250 for a delinquent application for license
10 renewal.

11 (4) All license fees shall be transmitted by the board
12 through the Department of Education to be deposited in the
13 Institutional Assessment Trust Fund created by s. 246.31.

14 246.220 Surety bonds or insurance.--Surety bonds or
15 insurance shall not be required of any school licensed by the
16 State Board of Nonpublic Career Education, except as may be
17 required by the board to insure the train-out of projected or
18 currently enrolled students, issuance of refunds to projected
19 or currently enrolled students, payment of liabilities to the
20 Student Protection Fund, or for the retrieval or safekeeping
21 of student records.

22 246.222 School administrator training.--

23 (1) The board is authorized to ensure that the
24 administrators of licensed schools are qualified to conduct
25 the operations of their respective positions and to require
26 such administrators to receive continuing education and
27 training as adopted by rule of the board. The positions for
28 which the board may review qualifications and require
29 continuing education and training may include the positions of
30 school director, director of education or training, placement
31 director, admissions director, and financial aid director.

1 (2) The training of each administrator shall be the
2 type of training necessary to assure compliance with board
3 statutes and rules and with those of other state or federal
4 agencies in relation to the responsibilities of the respective
5 positions.

6 (3) The board shall adopt general qualifications for
7 each of the respective positions and establish guidelines for
8 the minimum amount and type of continuing education and
9 training to be required. The continuing education and
10 training may be provided by the board, appropriate state or
11 federal agencies, or professional organizations familiar with
12 the requirements of the particular administrative positions.
13 The actual curriculums should be left to the discretion of
14 those agencies and organizations.

15 (4) Evidence of the administrator's compliance with
16 the continuing education and training requirements established
17 by the board may be included in the initial and renewal
18 application forms provided by the board. Actual records of the
19 continuing education and training received by administrators
20 shall be maintained at the school and available for inspection
21 at all times.

22 (5) Qualifications of administrators in their
23 respective fields, as well as continuing education and
24 training, may be established by the board as a condition of an
25 application for licensure by a new school or for renewal of a
26 license.

27 246.2235 School closings.--

28 (1) The intent of ss. 246.201-246.231 is to provide
29 for the protection of the health, education, and welfare of
30 the citizens of Florida. The Legislature finds that the
31 actions of school owners and operators in closing licensed

1 schools and not providing for the proper train-out or
2 appropriate refund of fees paid by students constitutes a
3 serious detriment to the educational delivery system in the
4 state. The Legislature further finds that measures need to be
5 taken to prevent such closures without proper train-outs or
6 refunds and to prohibit school owners who have unlawfully
7 closed a school from operating a similar licensed school in
8 the state. Furthermore, the Legislature finds that when a
9 licensed school ceases operation, it is essential that student
10 records be immediately conveyed to or placed within control of
11 the state. The opportunity for students to continue their
12 education or otherwise be able to assess and provide
13 documentation of their educational status is for the board to
14 have control over all student records upon closure of the
15 school.

16 (2) Upon closure of a licensed institution, all
17 student records shall become property of the state and shall
18 be conveyed to the board office or to another location
19 designated by the board or its executive director. Copies of
20 records shall be made available to bankruptcy trustees, upon
21 request, and to the student. Confidentiality of the records
22 shall be maintained, to the extent required by law. Any
23 school owner, director, or administrator who knowingly
24 destroys, abandons, or fails to convey or provide for the
25 safekeeping of school and student records is subject to the
26 board's seeking civil penalties in an amount not to exceed
27 \$10,000 from each individual. The board is authorized to use
28 moneys in the Student Protection Fund to facilitate the
29 retrieval or safekeeping of records at a school that has
30 closed.

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1 (3) A licensed school, through its owners, directors,
2 and administrators, is required to immediately notify the
3 board in writing of the closure of the school. Furthermore,
4 such owners, directors, and administrators must organize an
5 orderly closure of the school, including, but not limited to,
6 the train-out of its students. An owner, director, or
7 administrator who fails to notify the board immediately of the
8 school closure, or fails to organize the orderly closure of
9 the school and train-out of the students, is guilty of a
10 misdemeanor of the second degree, punishable as provided in s.
11 775.082 or s. 775.083.

12 (4) The board may conduct an investigation to
13 determine if an applicant for a new school license, or the
14 school's owners, directors, or administrators, either closed a
15 school previously, failed to train-out students or issue
16 appropriate refunds, or had its license to operate a school in
17 this state or an out-of-state school revoked or denied.

18 (5) Any person convicted of crime relating to the
19 unlawful operation or management of a school shall not be
20 eligible for a license to own, operate, or manage, or be a
21 registered agent for, a licensed school in this state, or be a
22 director or officer in a corporation owning or operating a
23 licensed school. Such person shall not be allowed to operate
24 or serve in a management or supervisory position in a licensed
25 school.

26 (6) The board is authorized to deny an application for
27 a new school license if the board determines that the
28 applicant, its owners, officers, directors, or administrators
29 were previously operating a school in this or in another state
30 contrary to the health, education, and welfare of the citizens
31 of that state. Factors which may be considered by the board

1 include, but are not limited to, the denial or revocation of a
2 school license, prior criminal or civil administrative
3 proceedings regarding the operation and management of a
4 school, other types of criminal proceedings involving fraud,
5 deceit, dishonesty, or moral turpitude, failure of the school
6 to be properly closed, including training-out or providing for
7 the train-out of its students, and failure to issue
8 appropriate refunds, if any. The board may require an
9 applicant, its owners, officers, directors, or administrators
10 to provide the board with information under oath regarding the
11 prior operation of a school and criminal justice information,
12 the cost of which shall be borne by the applicant in addition
13 to the other license fees.

14 (7) The board is authorized to refer matters it deems
15 appropriate to the Department of Legal Affairs or the state
16 attorney for investigation and prosecution.

17 246.225 No tax exemptions.--The granting of a license
18 or accreditation under ss. 246.201-246.231 shall not be
19 considered an accreditation for the purpose of tax exemption
20 under state law.

21 246.226 Disciplinary proceedings.--

22 (1)(a) The board shall cause to be investigated any
23 suspected violation of a provision of ss. 246.201-246.231 or
24 rule of the board. Regardless of the source of information
25 regarding the violation, an investigation may be continued
26 until it is completed and an investigative report is presented
27 to a probable cause panel of the board.

28 (b) Any institution or individual that is the subject
29 of an investigation by the board shall be notified by the
30 board of the investigation and the substance of the complaint
31 that prompted the investigation. Notification may be withheld

1 upon the recommendation of the executive director and
2 concurrence of the chair of the board if both parties agree
3 that notification would impede the investigation. The board
4 may also withhold notification to a person under investigation
5 for an act which constitutes a criminal offense.

6 (2) The board shall investigate complaints in a timely
7 manner. The complaint and all information obtained by the
8 board during the resultant investigation shall be confidential
9 and exempt from the provisions of s. 119.07(1) for a maximum
10 of 10 days after the probable cause panel declares a finding
11 of probable cause. The board may provide information obtained
12 pursuant to this subsection to any law enforcement or
13 regulatory agency. The board may utilize consultants who
14 possess expertise or specialized knowledge regarding the
15 substance of the investigation. Any such consultants shall be
16 subject to the provisions of this subsection. A consultant so
17 utilized shall prepare and submit an investigative report that
18 contains the investigative findings and recommendations
19 concerning the existence of probable cause to the probable
20 cause panel. The probable cause panel may request additional
21 investigative information within 15 days of receipt of an
22 investigative report. The panel shall make its determination
23 of probable cause no later than 30 days after it receives the
24 final investigative report.

25 (3) The determination of probable cause shall be made
26 by a majority vote of the probable cause panel. The panel
27 shall be composed pursuant to board rule. The proceedings of
28 such panel shall be exempt from the provisions of ss. 120.525
29 and 286.011 until the panel declares a finding of probable
30 cause. After the panel declares a finding of probable cause,
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1 the board may issue an administrative complaint and prosecute
2 such complaint pursuant to the provisions of chapter 120.

3 (4) The board members who did not serve on the
4 probable cause panel shall review the recommended order of the
5 administrative law judge and shall issue a final order for
6 each such hearing. Such order shall constitute final agency
7 action.

8 (5) Upon written request by an informant, the board
9 shall notify the informant of the status of an investigation,
10 civil action, or administrative proceeding. The findings of
11 the probable cause panel shall not be disclosed until the
12 information is no longer confidential.

13 (6) A privilege against civil liability is granted to
14 any informant or any witness who provides information in good
15 faith for an investigation or proceeding conducted pursuant to
16 this section.

17 (7) The board may deny initial licensure, renewal
18 licensure, or amended licensure on the basis of all
19 information available to the board. Such actions shall not be
20 considered disciplinary and shall not require probable cause
21 proceedings.

22 246.2265 Additional regulatory powers while
23 disciplinary proceedings are pending; cease and desist
24 orders.--

25 (1) The board may, in conjunction with an
26 administrative complaint or notice of denial of licensure,
27 issue cease and desist orders for the purpose of protecting
28 the health, safety, and welfare of students, prospective
29 students, and the general public. Such orders may be
30 mandatory or prohibitory in form and may order a nonpublic
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1 postsecondary career institution, officer, employee, or agent
2 to:

3 (a) Cease and desist from specified conduct which
4 relates to acts or omissions stated in the administrative
5 complaint or notice of denial of licensure; or

6 (b) Cease and desist from failing to engage in
7 specified conduct which is necessary to achieve or preserve
8 the regulatory purposes of ss. 246.201-246.231.

9 (2) Cease and desist orders may include, but not be
10 limited to, orders to:

11 (a) Cease the enrollment of new students or limit
12 enrollment to those students who can be adequately served
13 within the current facilities of the institution by the
14 current officers and employees, or to limit enrollment to
15 those students who meet more restrictive admissions standards.

16 (b) Modify curricula or methods of instruction, as
17 needed, to ensure that currently enrolled students receive the
18 education or training of the type and quality represented in
19 the institutional catalog.

20 (c) Cease from advertising, to advertise only with
21 prior approval of the board, or to publish or broadcast
22 corrective or clarifying advertising, as needed, to overcome
23 the effects of previous allegedly deceptive or misleading
24 advertising.

25 (3) Cease and desist orders issued pursuant to this
26 section shall take effect immediately upon issuance and shall
27 remain in effect until the board takes final agency action. A
28 cease and desist order shall be reviewable at the request of
29 the institution, officer, employee, or agent to whom it is
30 directed as follows:

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1 (a) If formal proceedings have been requested and the
2 matter has been referred to the Division of Administrative
3 Hearings, a motion to abate or modify the cease and desist
4 order may be filed with the division. Any interlocutory order
5 of the presiding administrative law judge shall be binding on
6 the parties until final agency action is taken by the board.

7 (b) If informal proceedings before the board have been
8 requested, the board may, at any regular board meeting,
9 consider and determine a request from the affected party to
10 abate or modify the cease and desist order.

11 (c) If a party is aggrieved by a cease and desist
12 order after seeking to have the order abated or modified
13 pursuant to paragraph (a) or paragraph (b), the party may seek
14 interlocutory judicial review by the appropriate district
15 court of appeal pursuant to the applicable rules of appellate
16 procedure.

17 (4) The executive director of the board, with the
18 approval of the chair of the board, may issue and deliver a
19 cease and desist order to a nonpublic postsecondary career
20 institution.

21 246.227 Injunctive relief; unlicensed operation of a
22 school; cease and desist notice; civil penalty.--

23 (1) The board may obtain an injunction or take any
24 action it deems necessary against any school or agent in
25 violation of ss. 246.201-246.231, but no such proceedings and
26 no orders issued therein or as a result thereof shall bar the
27 imposition of any other penalties which may be imposed for the
28 violation of this act.

29 (2) An unlicensed nonpublic postsecondary career
30 institution required to be licensed pursuant to ss.
31 246.201-246.231 that advertises or causes advertisements to be

1 made public through which students are solicited for
2 enrollment or are offered diplomas shall be in violation of
3 the provisions of ss. 246.201-246.231. A licensed nonpublic
4 postsecondary career institution that is under temporary or
5 permanent injunction against operating or offering diplomas
6 that advertises or causes advertisements to be made public
7 through which students are solicited for enrollment or are
8 offered diplomas shall be in violation of such injunctive
9 order upon presentation to the court of the advertisement.

10 (3) The executive director of the board, with the
11 approval of the chair of the board, may issue and deliver a
12 cease and desist order to any nonpublic postsecondary career
13 institution or agent required to be licensed pursuant to ss.
14 246.201-246.231 that is not so licensed. The board may file,
15 in the name of the state, a proceeding which seeks issuance of
16 an injunction against any person in violation of any provision
17 of such order.

18 (4) In addition to or in lieu of any remedy provided
19 in this section, the board may seek the imposition of a civil
20 penalty through the circuit court for any violation for which
21 the board may issue a notice to cease and desist under this
22 section. The civil penalty shall be no less than \$500 and no
23 more than \$5,000 for each offense. The court may also award
24 to the prevailing party court costs and reasonable attorney's
25 fees and, in the event the board prevails, may also award
26 reasonable costs of investigation.

27 246.228 Grounds for disciplinary action; action by the
28 board.--

29 (1) The following acts shall constitute grounds for
30 which the disciplinary actions specified in subsection (2) may
31 be taken:

- 1 (a) Attempting to obtain, obtaining, or renewing a
2 license to operate a school by bribery, by fraudulent
3 misrepresentation, or through an error of the board.
- 4 (b) Having a license to operate a school revoked,
5 suspended, or otherwise acted against, including the denial of
6 licensure, by the licensing authority of another state,
7 territory, or country.
- 8 (c) Pleading nolo contendere to or being found guilty,
9 regardless of adjudication, of a crime in any jurisdiction.
- 10 (d) Aiding, assisting, procuring, or advising any
11 unlicensed person to operate a school contrary to this chapter
12 or to a rule of the board.
- 13 (e) Delegating professional responsibilities to a
14 person when the licensee delegating such responsibilities
15 knows or has reason to know that such person is not qualified
16 by training, experience, or licensure to perform them.
- 17 (f) Violating any provision of this section or rule of
18 the board, the penalty for which is a disciplinary action set
19 forth in subsection (2), or any lawful order of the board
20 previously entered in a disciplinary hearing or failing to
21 comply with a lawfully issued subpoena of the board.
- 22 (g) Conspiring with another licensee or with any other
23 person to commit an act, or committing an act, which would
24 tend to coerce, intimidate, or preclude another licensee from
25 lawfully advertising his or her services.
- 26 (h) False, deceptive, or misleading advertising.
- 27 (i) Committing other acts prohibited by rule of the
28 board.
- 29 (2) The board shall enter a final order either
30 dismissing the complaint or imposing one or more of the
31 following penalties:

- 1 (a) Denial of an application for licensure.
2 (b) Revocation or suspension of a license.
3 (c) Imposition of an administrative fine of no less
4 than \$100 and no more than \$1,000 for each count or separate
5 offense. Such fine shall be deposited in the Institutional
6 Assessment Trust Fund pursuant to s. 246.31.
7 (d) Placement of the licensee on probation for a
8 period of time and subject to such conditions as the board may
9 specify.
10 (e) Issuance of a written reprimand to the school.
11 Such reprimand shall be posted in a prominent place at the
12 school for such period of time as the board may specify.
13 246.229 Enforcement.--The Department of Legal Affairs
14 or the state attorney shall have authority to enforce ss.
15 246.201-246.231.
16 246.231 Penalties.--Any person who violates or fails
17 to comply with ss. 246.201-246.231 or any of the rules
18 promulgated thereunder:
19 (1) For the first conviction, is guilty of a
20 misdemeanor of the second degree, punishable as provided in s.
21 775.082 or s. 775.083.
22 (2) For a second or subsequent conviction, is guilty
23 of a misdemeanor of the first degree, punishable as provided
24 in s. 775.082 or s. 775.083.
25 (3) May have his or her license revoked.
26 Section 6. This act shall take effect upon becoming a
27 law.
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