

CHAMBER ACTION

1 The Colleges & Universities Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to educational loan marketing; creating s.
7 1009.9997, F.S.; creating the Educational Loan Marketing
8 Corporation of Florida, Inc., to provide services as a
9 secondary student loan market; requiring compliance with
10 not-for-profit corporation requirements and public records
11 and public meetings requirements; authorizing the
12 corporation to borrow through public bonds and private
13 financial sources; providing uses of proceeds of the
14 corporation; providing for a board of directors and
15 specifying membership; providing for powers and duties of
16 the board of directors; requiring the corporation to
17 submit a business plan to the Department of Education;
18 providing accounting and audit requirements; requiring
19 revenues of the corporation to be used for providing
20 secondary student loan market services; prohibiting state
21 indebtedness or obligation; exempting bonds issued by the
22 corporation, their transfer, and the income therefrom from
23 taxation; providing intent and requirements relating to

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24 | costs; requiring budget approval by the department;
25 | providing an effective date.

26 |
27 | Be It Enacted by the Legislature of the State of Florida:

28 |
29 | Section 1. Section 1009.9997, Florida Statutes, is created
30 | to read:

31 | 1009.9997 Educational Loan Marketing Corporation of
32 | Florida, Inc.--

33 | (1) There is created a not-for-profit corporation, to be
34 | known as the Educational Loan Marketing Corporation of Florida,
35 | Inc., which shall be registered, incorporated, organized, and
36 | operated in compliance with chapter 617 and which shall not be a
37 | unit or entity of state government. The Legislature determines,
38 | however, that public policy dictates that the Educational Loan
39 | Marketing Corporation of Florida, Inc., operate in the most open
40 | and accessible manner consistent with its public purpose. To
41 | this end, the Legislature specifically declares that the
42 | Educational Loan Marketing Corporation of Florida, Inc., and its
43 | boards and advisory committees or similar groups created by the
44 | Educational Loan Marketing Corporation of Florida, Inc., are
45 | subject to the provisions of chapter 119, relating to public
46 | records, and the provisions of chapter 286, relating to public
47 | meetings and records.

48 | (2)(a) The corporation shall purchase, service, and
49 | otherwise provide access and service as a secondary market for
50 | student loans in this state. The corporation is authorized to
51 | borrow funds and incur debt, including the issuance of revenue

52 bonds, for the purposes set forth in this section. The
 53 corporation is authorized to apply for private activity bond
 54 allocation in accordance with the provisions of part VI of
 55 chapter 159.

56 (b) Proceeds of the corporation shall be used for the
 57 creation of incentive programs serving Florida residents, such
 58 as, but not limited to, interest rate reductions for automated
 59 and timely payments and programs for students pursuing a degree
 60 in areas of critical need in the state.

61 (3) The corporation shall be administered by a 13-member
 62 board of directors composed of 11 members appointed by the
 63 Governor, one member appointed by the President of the Senate,
 64 and one member appointed by the Speaker of the House of
 65 Representatives. The members shall be confirmed by the Senate.
 66 The membership of the board of directors shall include:

67 (a) Two members who are representatives of lending
 68 institutions that originate student loans in the state and who
 69 have a favorable reputation for skill, knowledge, and experience
 70 in the field of higher education loan finance.

71 (b) Two members who are representatives of state
 72 universities.

73 (c) Two members who are representatives of community
 74 colleges.

75 (d) One member who represents technical schools that are
 76 eligible to receive student loans.

77 (e) One member who represents independent colleges and
 78 universities.

79 (f) Two members who are chosen from a list of five names
80 submitted by the Chief Financial Officer.

81 (g) One lay citizen who does not derive a majority of his
82 or her income from education or an education-related field.

83 (h) A member of the Senate, who shall be appointed by the
84 President of the Senate as an ex officio member of the board of
85 directors and who shall serve at the pleasure of the President
86 of the Senate.

87 (i) A member of the House of Representatives, who shall be
88 appointed by the Speaker of the House of Representatives as an
89 ex officio member of the board of directors and who shall serve
90 at the pleasure of the Speaker of the House of Representatives.

91
92 Except for the members of the Legislature, all members of the
93 board of directors, including the chair, shall be appointed to
94 serve 3-year terms. However, for the purpose of providing
95 staggered terms, of the initial appointments, three members
96 shall be appointed to 1-year terms, three members shall be
97 appointed to 2-year terms, and five members shall be appointed
98 to 3-year terms.

99 (4)(a) The board of directors shall annually elect a chair
100 and vice chair.

101 (b) Members of the board of directors may be reimbursed
102 from moneys of the corporation for expenses incurred as members,
103 pursuant to s. 112.061, but shall not otherwise be compensated
104 for their services.

105 (c) Each member of the board of directors who is not
106 otherwise required to file financial disclosure pursuant to s.

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107 8, Art. II of the State Constitution or s. 112.3144 shall file
 108 disclosure of financial interests pursuant to s. 112.3145.

109 (5) The board of directors may employ or retain such
 110 persons as are necessary to perform the administrative and
 111 financial transactions and responsibilities of the corporation
 112 and to perform other necessary and proper functions required by
 113 law.

114 (6)(a) The corporation shall annually prepare and submit a
 115 business plan to the Department of Education. The department
 116 shall monitor the corporation and set performance standards that
 117 are consistent with its mission.

118 (b) The corporation must maintain adequate accounting
 119 records that comply with all applicable federal and state laws
 120 and must authorize the department to have access to and conduct
 121 audits of all records concerning the contracted and outsourced
 122 functions or services.

123 (c) The corporation must meet all legal and auditing
 124 requirements for record retention and transfer to the state, at
 125 no cost to the state, of all public records in its possession
 126 upon termination or dissolution. All records stored
 127 electronically must be provided to the state in a format that is
 128 compatible with state information technology systems.

129 (7)(a) It is the intent of the Legislature that the tax
 130 exemptions provided in this subsection will augment the
 131 financial resources of the corporation to better enable the
 132 corporation to fulfill its public purpose.

133 (b) The revenues of the corporation are funds received for
 134 providing services as a secondary student loan market as

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135 required by this section and for conducting all other activities
136 of the corporation and shall not be considered taxes, fees,
137 licenses, or charges for services imposed by the Legislature on
138 individuals, businesses, or agencies outside state government.
139 Bonds and other debt obligations issued by or on behalf of the
140 corporation shall be payable solely from funds derived directly
141 from sources other than state tax revenues, shall not constitute
142 a general obligation or indebtedness of the state or any of its
143 agencies or political subdivisions, and shall not be a debt of
144 the state or any of its agencies or political subdivisions, and
145 the full faith and credit of the state is not pledged to the
146 payment of the principal of, premium if any on, or interest on
147 such obligations. The issuance of such obligations shall not
148 directly, indirectly, or contingently obligate the state to use
149 state funds, to levy or to pledge any form of taxation
150 whatsoever, or to make any appropriation for payment of the
151 principal of, premium if any on, or interest on such
152 obligations. Any bonds issued by the corporation, their
153 transfer, and the income therefrom, including any profit made on
154 the sale thereof, shall at all times be free from taxation of
155 every kind by the state or any political subdivision, local
156 unit, or other instrumentality thereof. However, this exemption
157 does not apply to any tax imposed by chapter 220 on interest,
158 income, or profits on debt obligations owned by corporations
159 other than the Educational Loan Marketing Corporation of
160 Florida, Inc.

161 (8)(a) It is the intent of the Legislature that the
162 corporation be self-sustaining and that all operational costs,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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163 with the exception of reasonable and necessary start-up costs,
164 be paid through income received by the corporation from
165 activities authorized pursuant to this section. Any funds
166 received from the state to assist in start-up costs must be
167 repaid by the corporation.

168 (b) In keeping with its public mission, the corporation
169 shall keep expenses, including salaries and benefits, on par
170 with similarly situated public-private entities, subject to
171 approval by the Department of Education. The corporation shall
172 annually submit a proposed budget to the department, which shall
173 approve it consistent with this subsection.

174 Section 2. This act shall take effect upon becoming a law.