

CHAMBER ACTION

1 The Finance & Tax 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

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. The Legislature  
37 | determines that public policy dictates that the Educational Loan  
38 | Marketing Corporation of Florida, Inc., operate in the most open  
39 | and accessible manner consistent with its public purpose. To  
40 | this end, the Legislature specifically declares that the  
41 | Educational Loan Marketing Corporation of Florida, Inc., and its  
42 | boards and advisory committees or similar groups created by the  
43 | Educational Loan Marketing Corporation of Florida, Inc., are  
44 | subject to the provisions of chapter 119, relating to public  
45 | records, and the provisions of chapter 286, relating to public  
46 | meetings and records.

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

52 corporation is authorized to apply for private activity bond  
 53 allocation in accordance with the provisions of part VI of  
 54 chapter 159.

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

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

66 (a) The 11 members of the board of directors appointed by  
 67 the Governor shall include:

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

72 2. Two members who are representatives of state  
 73 universities.

74 3. Two members who are representatives of community  
 75 colleges.

76 4. One member who represents technical schools that are  
 77 eligible to receive student loans.

78 5. One member who represents independent colleges and  
 79 universities.

80       6. Two members who are chosen from a list of five names  
 81 submitted by the Chief Financial Officer.

82       7. One lay citizen who does not derive a majority of his  
 83 or her income from education or an education-related field.

84       (b) The remaining two members of the board of directors  
 85 shall include:

86       1. A member of the Senate, who shall be appointed by the  
 87 President of the Senate as a nonvoting ex officio member of the  
 88 board of directors and who shall serve at the pleasure of the  
 89 President of the Senate.

90       2. A member of the House of Representatives, who shall be  
 91 appointed by the Speaker of the House of Representatives as a  
 92 nonvoting ex officio member of the board of directors and who  
 93 shall serve at the pleasure of the Speaker of the House of  
 94 Representatives.

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

103       (4)(a) The board of directors shall annually elect a chair  
 104 and vice chair.

105       (b) Members of the board of directors may be reimbursed  
 106 from moneys of the corporation for expenses incurred as members,

107 pursuant to s. 112.061, but shall not otherwise be compensated  
 108 for their services.

109 (c) Each member of the board of directors who is not  
 110 otherwise required to file financial disclosure pursuant to s.  
 111 8, Art. II of the State Constitution or s. 112.3144 shall file  
 112 disclosure of financial interests pursuant to s. 112.3145.

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

118 (6)(a) The corporation shall annually prepare and submit a  
 119 business plan to the Department of Education. The department  
 120 shall monitor the corporation and set performance standards that  
 121 are consistent with its mission.

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

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

133 (7)(a) It is the intent of the Legislature that the tax  
 134 exemptions provided in this subsection will augment the

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135 financial resources of the corporation to better enable the  
136 corporation to fulfill its public purpose.

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

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

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163 other than the Educational Loan Marketing Corporation of  
164 Florida, Inc.

165 (8)(a) It is the intent of the Legislature that the  
166 corporation be self-sustaining and that all operational costs,  
167 with the exception of reasonable and necessary start-up costs,  
168 be paid through income received by the corporation from  
169 activities authorized pursuant to this section. Any funds  
170 received from the state to assist in start-up costs must be  
171 repaid by the corporation.

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

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