

1 A bill to be entitled
2 An act relating to prepaid college board programs;
3 amending s. 1009.971, F.S.; providing that the Florida
4 Prepaid College Board shall have the power to provide for
5 the transfer of ownership of an advance payment contract
6 under the Florida Prepaid College Program or a
7 participation agreement under the Florida College Savings
8 Program upon inheritance, devise, or bequest; providing
9 procedures and requirements with respect to such transfer
10 of ownership; providing for specification of application
11 contents by rule; providing applicability; amending ss.
12 1009.972, 1009.98, and 1009.981, F.S.; authorizing the
13 transfer of funds retained from terminated advance payment
14 contracts, canceled contracts, and terminated
15 participation agreements to the direct-support
16 organization established under pt. IV of ch. 1009, F.S.,
17 for use by the Florida Prepaid Tuition Scholarship Program
18 and for children of specified members of the armed forces
19 of the United States who die while participating in the
20 combat theater of operations for Operation Iraqi Freedom
21 or Operation Enduring Freedom; providing an effective
22 date.

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

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26 Section 1. Paragraph (z) is added to subsection (4) of
27 section 1009.971, Florida Statutes, to read:

28 1009.971 Florida Prepaid College Board.--

29 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.--The
30 board shall have the powers and duties necessary or proper to
31 carry out the provisions of ss. 1009.97-1009.984, including, but
32 not limited to, the power and duty to:

33 (z) Provide for the transfer of ownership of an advance
34 payment contract or a participation agreement by operation of
35 law upon inheritance, devise, or bequest. An heir of a deceased
36 purchaser or a deceased benefactor may make an application to
37 the board under oath for a change in the purchaser or benefactor
38 and, upon receipt of a completed application, the board may
39 change the ownership of the advance payment contract or
40 participation agreement, as appropriate, to the heir. The board
41 shall specify by rule the information that must be included in
42 the application. When the application is made by an heir of a
43 deceased purchaser or deceased benefactor who died intestate, it
44 shall not be necessary to accompany the application with an
45 order of a probate court if the heir files with the board an
46 affidavit stating that the estate is not indebted and the
47 surviving spouse, if any, and the heirs, if any, have amicably
48 agreed among themselves upon a division of the estate. If the
49 deceased purchaser or deceased benefactor died testate, the
50 application shall be accompanied by a certified copy of the
51 will, if probated, and an affidavit stating that the estate is
52 solvent with sufficient assets to pay all just claims or, if the
53 will is not being probated, by a sworn copy of the will and an
54 affidavit stating that the estate is not indebted. Upon the
55 approval by the board of an application from an heir, the heir
56 shall become the purchaser of the advance payment contract or

57 the benefactor of the participation agreement. This subsection
58 does not apply when a purchaser or benefactor has designated in
59 writing to the board the person who will succeed to the
60 ownership of the advance payment contract or participation
61 agreement in the event of the purchaser's or benefactor's death,
62 and that person survives the purchaser or benefactor.

63 Section 2. Subsection (5) of section 1009.972, Florida
64 Statutes, is amended to read:

65 1009.972 Florida Prepaid College Trust Fund.--

66 (5) Notwithstanding the provisions of chapter 717, funds
67 associated with terminated advance payment contracts pursuant to
68 s. 1009.98(4)(k) and canceled contracts for which no refunds
69 have been claimed shall be retained by the board. The board
70 shall establish procedures for notifying purchasers who
71 subsequently cancel their advance payment contracts of any
72 unclaimed refund and shall establish a time period after which
73 no refund may be claimed by a purchaser who canceled a contract.
74 The board may transfer funds retained from such terminated
75 advance payment contracts and canceled contracts to the direct-
76 support organization established pursuant to s. 1009.983 for the
77 Florida Prepaid Tuition Scholarship Program to provide matching
78 funds for prepaid tuition scholarships for economically
79 disadvantaged youth who remain drug free and crime free and for
80 children of members of the armed forces and Coast Guard of the
81 United States who die while participating in the combat theater
82 of operations for Operation Iraqi Freedom or Operation Enduring
83 Freedom on or after the date on which this act becomes a law and

84 were Florida residents at the time of their death or have listed
 85 Florida as their domicile at the time of their death.

86 Section 3. Paragraph (k) of subsection (4) of section
 87 1009.98, Florida Statutes, is amended to read:

88 1009.98 Florida Prepaid College Program.--

89 (4) ADVANCE PAYMENT CONTRACTS.--The board shall develop
 90 advance payment contracts for registration and may develop
 91 advance payment contracts for dormitory residence as provided in
 92 this section. Advance payment contracts shall be exempt from
 93 chapter 517 and the Florida Insurance Code. Such contracts shall
 94 include, but not be limited to, the following:

95 (k) The period of time after which advance payment
 96 contracts that have not been terminated or the benefits used
 97 shall be considered terminated. Time expended by a qualified
 98 beneficiary as an active duty member of any of the armed
 99 services of the United States shall be added to the period of
 100 time specified by the board. No purchaser or qualified
 101 beneficiary whose advance payment contract is terminated
 102 pursuant to this paragraph shall be entitled to a refund.
 103 Notwithstanding chapter 717, the board shall retain any moneys
 104 paid by the purchaser for an advance payment contract that has
 105 been terminated in accordance with this paragraph. Such moneys
 106 may be transferred to the direct-support organization
 107 established pursuant to s. 1009.983 for the Florida Prepaid
 108 Tuition Scholarship Program to provide matching funds for
 109 prepaid tuition scholarships for economically disadvantaged
 110 youths who remain drug free and crime free and for children of
 111 members of the armed forces and Coast Guard of the United States

112 who die while participating in the combat theater of operations
 113 for Operation Iraqi Freedom or Operation Enduring Freedom on or
 114 after the date on which this act becomes a law and were Florida
 115 residents at the time of their death or have listed Florida as
 116 their domicile at the time of their death.

117 Section 4. Paragraph (b) of subsection (2) of section
 118 1009.981, Florida Statutes, is amended to read:

119 1009.981 Florida College Savings Program.--

120 (2) PARTICIPATION AGREEMENTS.--

121 (b) The board shall develop a participation agreement
 122 which shall be the agreement between the board and each
 123 benefactor, which may include, but is not limited to:

124 1. The name, date of birth, and social security number of
 125 the designated beneficiary.

126 2. The amount of the contribution or contributions and
 127 number of contributions required from a benefactor on behalf of
 128 a designated beneficiary.

129 3. The terms and conditions under which benefactors shall
 130 remit contributions, including, but not limited to, the date or
 131 dates upon which each contribution is due. Deposits to the
 132 savings program by benefactors may only be in cash. Benefactors
 133 may contribute in a lump sum, periodically, in installments, or
 134 through electronic funds transfer or employer payroll
 135 deductions.

136 4. Provisions for late contribution charges and for
 137 default.

138 5. Provisions for penalty fees for withdrawals from the
 139 program.

140 6. The name of the person who may terminate participation
141 in the program. The participation agreement must specify whether
142 the account may be terminated by the benefactor, the designated
143 beneficiary, a specific designated person, or any combination of
144 these persons.

145 7. The terms and conditions under which an account may be
146 terminated, modified, or converted, the name of the person
147 entitled to any refund due as a result of termination of the
148 account pursuant to such terms and conditions, and the amount of
149 refund, if any, due to the person so named.

150 8. Penalties for distributions not used or made in
151 accordance with s. 529 of the Internal Revenue Code.

152 9. Any charges or fees in connection with the
153 administration of the savings fund.

154 10. The period of time after which each participation
155 agreement shall be considered to be terminated. Time expended by
156 a designated beneficiary as an active duty member of any of the
157 armed services of the United States shall be added to the period
158 specified pursuant to this subparagraph. Should a participation
159 agreement be terminated, the balance of the account, after
160 notice to the benefactor, shall be declared unclaimed and
161 abandoned property. The board shall retain any moneys paid by
162 the benefactor for a participation agreement that has been
163 terminated in accordance with this subparagraph. Such moneys may
164 be transferred to the direct-support organization established
165 pursuant to s. 1009.983 for the Florida Prepaid Tuition
166 Scholarship Program to provide matching funds for prepaid
167 tuition scholarships for economically disadvantaged youths who

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168 remain drug free and crime free and for children of members of
169 the armed forces and Coast Guard of the United States who die
170 while participating in the combat theater of operations for
171 Operation Iraqi Freedom or Operation Enduring Freedom on or
172 after the date on which this act becomes a law and were Florida
173 residents at the time of their death or have listed Florida as
174 their domicile at the time of their death.

175 11. Other terms and conditions deemed by the board to be
176 necessary or proper.

177 Section 5. This act shall take effect July 1, 2005.