

By the Committee on Education; and Senator Bennett

581-2162-05

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

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

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30 Section 1. Section 1009.9997, Florida Statutes, is
31 created to read:

1 1009.9997 Educational Loan Marketing Corporation of
2 Florida, Inc.--

3 (1) There is created a not-for-profit corporation, to
4 be known as the Educational Loan Marketing Corporation of
5 Florida, Inc., which shall be registered, incorporated,
6 organized, and operated in compliance with chapter 617. The
7 Legislature finds, however, that public policy dictates that
8 the Educational Loan Marketing Corporation of Florida, Inc.,
9 operate in the most open and accessible manner consistent with
10 its public purpose. To this end, the Legislature specifically
11 declares that the Educational Loan Marketing Corporation of
12 Florida, Inc., and its boards and advisory committees or
13 similar groups created by the Educational Loan Marketing
14 Corporation of Florida, Inc., are subject to chapter 119,
15 relating to public records, and chapter 286, relating to
16 public meetings and records.

17 (2)(a) The corporation shall purchase, service, and
18 otherwise provide access and service as a secondary market for
19 student loans in this state. The corporation is authorized to
20 borrow funds and incur debt, including the issuance of revenue
21 bonds, for the purposes set forth in this section. The
22 corporation is authorized to apply for private activity bond
23 allocation in accordance with part VI of chapter 159.

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

29 (3) The corporation shall be administered by a
30 13-member board of directors composed of 11 members appointed
31 by the Governor, one member appointed by the President of the

1 Senate, and one member appointed by the Speaker of the House
2 of Representatives. The members appointed by the Governor
3 shall be confirmed by the Senate. The 11 members of the board
4 of directors appointed by the Governor shall include:

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

9 (b) Two members who are representatives of state
10 universities.

11 (c) Two members who are representatives of community
12 colleges.

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

15 (e) One member who represents independent colleges and
16 universities.

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

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

22 (h) A member of the Senate, who shall be appointed by
23 the President of the Senate as a nonvoting ex officio member
24 of the board of directors and who shall serve at the pleasure
25 of the President of the Senate.

26 (i) A member of the House of Representatives, who
27 shall be appointed by the Speaker of the House of
28 Representatives as a nonvoting ex officio member of the board
29 of directors and who shall serve at the pleasure of the
30 Speaker of the House of Representatives.
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1 Except for the members of the Legislature, all members of the
2 board of directors, including the chair, shall be appointed to
3 serve 3-year terms. However, for the purpose of providing
4 staggered terms, of the initial appointments three members
5 shall be appointed to 1-year terms, three members shall be
6 appointed to 2-year terms, and five members shall be appointed
7 to 3-year terms.

8 (4)(a) The board of directors shall annually elect a
9 chair and vice chair.

10 (b) Members of the board of directors may be
11 reimbursed from moneys of the corporation for expenses
12 incurred as members, under s. 112.061, but shall not otherwise
13 be compensated for their services.

14 (c) Each member of the board of directors who is not
15 otherwise required to file financial disclosure under s. 8,
16 Art. II of the State Constitution or s. 112.3144 shall file
17 disclosure of financial interests under s. 112.3145.

18 (5) The board of directors may employ or retain such
19 persons as are necessary to perform the administrative and
20 financial transactions and responsibilities of the corporation
21 and to perform other necessary and proper functions required
22 by law.

23 (6)(a) The corporation shall annually prepare and
24 submit a business plan to the Department of Education. The
25 department shall monitor the corporation and set performance
26 standards that are consistent with its mission.

27 (b) The corporation must maintain adequate accounting
28 records that comply with all applicable federal and state laws
29 and must authorize the department to have access to and
30 conduct audits of all records concerning the contracted and
31 outsourced functions or services.

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

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

11 (b) The revenues of the corporation are funds received
12 for providing services as a secondary student loan market as
13 required by this section and for conducting all other
14 activities of the corporation and shall not be considered
15 taxes, fees, licenses, or charges for services imposed by the
16 Legislature on individuals, businesses, or agencies outside
17 state government. Bonds and other debt obligations issued by
18 or on behalf of the corporation shall be payable solely from
19 funds derived directly from sources other than state tax
20 revenues, do not constitute a general obligation or
21 indebtedness of the state or any of its agencies or political
22 subdivisions, and shall not be a debt of the state or any of
23 its agencies or political subdivisions, and the full faith and
24 credit of the state is not pledged to the payment of the
25 principal of, premium if any on, or interest on these
26 obligations. The issuance of these obligations does not
27 directly, indirectly, or contingently obligate the state to
28 use state funds, to levy or to pledge any form of taxation
29 whatsoever, or to make any appropriation for payment of the
30 principal of, premium if any on, or interest on such
31 obligations. Any bonds issued by the corporation, their

1 transfer, and the income therefrom, including any profit made
2 on the sale thereof, shall at all times be free from taxation
3 of every kind by the state or any political subdivision, local
4 unit, or other instrumentality thereof. However, this
5 exemption does not apply to any tax imposed by chapter 220 on
6 interest, income, or profits on debt obligations owned by
7 corporations other than the Educational Loan Marketing
8 Corporation of Florida, Inc.

9 (8)(a) It is the intent of the Legislature that the
10 corporation be self-sustaining and that all operational costs,
11 with the exception of reasonable and necessary start-up costs,
12 be paid through income received by the corporation from
13 activities authorized under this section. Any funds received
14 from the state to assist in start-up costs must be repaid by
15 the corporation.

16 (b) In keeping with its public mission, the
17 corporation shall keep expenses, including salaries and
18 benefits, on par with similarly situated public-private
19 entities, subject to approval by the Department of Education.
20 The corporation shall annually submit a proposed budget to the
21 department, which shall approve it consistent with this
22 subsection.

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

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 862
4 The committee substitute:
5 Revises the membership of the board of directors;
6 Requires the board of directors of the corporation to submit a
7 business plan to the Department of Education, conduct
8 audits, and annually submit a proposed budget to the
9 department;
10 Requires that salaries and benefits paid to the corporation's
11 personnel to be on par with similarly situated
12 public-private entities subject to approval by the
13 Department of Education; and
14 Specifies that the corporation is subject to open records
15 requirements.
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