

A bill to be entitled

An act relating to educational loan marketing; creating s. 1009.9997, F.S.; creating the Educational Loan Marketing Corporation of Florida, Inc., to provide services as a secondary student loan market; requiring compliance with not-for-profit corporation requirements and public records and public meetings requirements; authorizing the corporation to borrow through public bonds and private financial sources; providing uses of proceeds of the corporation; providing for a board of directors and specifying membership; providing for powers and duties of the board of directors; requiring the corporation to submit a business plan to the Department of Education; providing accounting and audit requirements; requiring revenues of the corporation to be used for providing secondary student loan market services; prohibiting state indebtedness or obligation; exempting bonds issued by the corporation, their transfer, and the income therefrom from taxation; providing intent and requirements relating to costs; requiring budget approval by the department; providing an effective date.

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

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

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

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

42 (2) (a) The corporation shall purchase, service, and
43 otherwise provide access and service as a secondary market for
44 student loans in this state. The corporation is authorized to
45 borrow funds and incur debt, including the issuance of revenue
46 bonds, for the purposes set forth in this section. The
47 corporation may apply for private activity bond allocation in
48 accordance with part VI of chapter 159.

49 (b) Proceeds of the corporation shall be used for the
50 creation of incentive programs serving state residents, such as,
51 but not limited to, interest rate reductions for automated and
52 timely payments and programs for students pursuing a degree in
53 areas of critical need in the state.

54 (3) The corporation shall be administered by a 13-member
55 board of directors composed of 11 members appointed by the
56 Governor, one member appointed by the President of the Senate,

57 and one member appointed by the Speaker of the House of
58 Representatives. The members appointed by the Governor shall be
59 confirmed by the Senate.

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

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

66 2. Two members who are representatives of state
67 universities.

68 3. Two members who are representatives of community
69 colleges.

70 4. One member who represents technical schools that are
71 eligible to receive student loans.

72 5. One member who represents independent colleges and
73 universities.

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

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

78 (b) The remaining two members of the board of directors
79 shall include:

80 1. A member of the Senate, who shall be appointed by the
81 President of the Senate as a nonvoting ex officio member of the
82 board of directors and who shall serve at the pleasure of the
83 President of the Senate.

84 2. A member of the House of Representatives, who shall be

85 appointed by the Speaker of the House of Representatives as a
86 nonvoting ex officio member of the board of directors and who
87 shall serve at the pleasure of the Speaker of the House of
88 Representatives.

89
90 Except for the members of the Legislature, all members of the
91 board of directors, including the chair, shall be appointed to
92 serve 3-year terms. However, for the purpose of providing
93 staggered terms, of the initial appointments, three members
94 shall be appointed to 1-year terms, three members shall be
95 appointed to 2-year terms, and five members shall be appointed
96 to 3-year terms.

97 (4) (a) The board of directors shall annually elect a chair
98 and vice chair.

99 (b) Members of the board of directors are entitled to
100 reimbursement from moneys of the corporation for expenses
101 incurred as members under s. 112.061 but may not otherwise be
102 compensated for their services.

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

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

112 (6) (a) The corporation shall annually prepare and submit a

113 business plan to the Department of Education. The department
114 shall monitor the corporation and set performance standards that
115 are consistent with its mission.

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

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

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

131 (b) The revenues of the corporation are funds received for
132 providing services as a secondary student loan market as
133 required by this section and for conducting all other activities
134 of the corporation and are not taxes, fees, licenses, or charges
135 for services imposed by the Legislature on individuals,
136 businesses, or agencies outside state government. Bonds and
137 other debt obligations issued by or on behalf of the corporation
138 shall be payable solely from funds derived directly from sources
139 other than state tax revenues, do not constitute a general
140 obligation or indebtedness of the state or any of its agencies

141 or political subdivisions, and shall not be a debt of the state
 142 or any of its agencies or political subdivisions, and the full
 143 faith and credit of the state is not pledged to the payment of
 144 the principal of, premium if any on, or interest on these
 145 obligations. The issuance of these obligations does not
 146 directly, indirectly, or contingently obligate the state to use
 147 state funds, to levy or to pledge any form of taxation
 148 whatsoever, or to make any appropriation for payment of the
 149 principal of, premium if any on, or interest on such
 150 obligations. Any bonds issued by the corporation, their
 151 transfer, and the income therefrom, including any profit made on
 152 the sale thereof, shall at all times be free from taxation of
 153 every kind by the state or any political subdivision, local
 154 unit, or other instrumentality thereof. However, this exemption
 155 does not apply to any tax imposed by chapter 220 on interest,
 156 income, or profits on debt obligations owned by corporations
 157 other than the Educational Loan Marketing Corporation of
 158 Florida, Inc.

159 (8) (a) It is the intent of the Legislature that the
 160 corporation be self-sustaining and that all operational costs,
 161 with the exception of reasonable and necessary start-up costs,
 162 be paid through income received by the corporation from
 163 activities authorized under this section. Any funds received
 164 from the state to assist in start-up costs must be repaid by the
 165 corporation.

166 (b) In keeping with its public mission, the corporation
 167 shall keep expenses, including salaries and benefits, on par
 168 with similarly situated public-private entities, subject to

HB 593

2006

169 approval by the Department of Education. The corporation shall
170 annually submit a proposed budget to the department, which shall
171 approve it consistent with this subsection.

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