

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 464

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Flores and Montford

SUBJECT: Prepaid College Plans

DATE: April 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend Fav/CS</u>
3.	<u>Underhill</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 464 modifies the Stanley G. Tate Florida Prepaid College Program to authorize students at a state university or Florida College System (FCS) institution to use the fees associated with a dormitory residence plan to cover the cost of housing provided by a qualified nonprofit organization that is approved by the state university or FCS institution. The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code that provides housing to full-time students at an FCS institution or state university, primarily supports students who lack financial resources, and has been approved by the Florida Prepaid Board.

The bill also specifies that dormitory fees paid to a qualified nonprofit organization may not exceed the average fees charged for state university dormitories, or for fees charged for dormitories or residency opportunities provided by FCS institution or FCS institution direct-support organizations, whichever is less.

The bill also modifies membership of the Florida Prepaid College Board direct-support organization.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Stanley G. Tate Florida Prepaid College Program

The Legislature created the Stanley G. Tate Florida Prepaid College Program (Prepaid Program) in 1987¹ to provide Florida's families a mechanism through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment.² Since its inception, more than 1.9 million Prepaid Program plans have been purchased, and more than 464,000 students have attended college using Prepaid Program plans.³

The Prepaid Program is administered by the Florida Prepaid College Board (Prepaid Board).⁴ The Prepaid Board is required to make advance payment contracts available for two independent plans called the Florida College System institution plan and the university plan.⁵ The advance payment contracts are financially guaranteed by the State of Florida⁶ and lock-in many of the costs associated with enrollment in state universities and FCS institutions (e.g., registration fees, tuition differential fees, local fees, and dormitory fees) at the time such contracts are purchased.⁷ Families may choose from the following Prepaid Program options:⁸

- 2-Year Florida College Plan (10.9 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida College Plan (6.7 percent of 2016-2017 Prepaid Plans sold).
- 2+2 Florida Plan (12.9 percent of 2016-2017 Prepaid Plans sold).
- 1-Year Florida University Plan (18.4 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida University Plan (51.1 percent of 2016-2017 Prepaid Plans sold).⁹

Dormitory Residence Plan

Dormitory plans may be added to the 2+2 Florida Plan, the 1-Year Florida University Plan, and the 4-Year Florida University Plan.¹⁰

¹ Section 1, ch. 1987-132, L.O.F.; see also Florida Prepaid College Board, *Our History*, <https://www.myfloridaprepaid.com/about-us/our-history/> (last visited Mar. 12, 2019).

² Section 1009.98(1), F.S.

³ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 2.

⁴ Section 1009.971(1), F.S. The Florida Prepaid College Board consists of seven members to be composed of the Attorney General, the Chief Financial Officer, the Chancellor of the State University System, the Chancellor of the Division of Florida Colleges, and three members appointed by the Governor and subject to confirmation by the Senate for a term of three years. Each member appointed by the Governor must possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Section 1009.971(2), F.S.

⁵ Section 1009.98(2), F.S. In Fall, 2016, 34,018 students attended 28 Florida College System institutions, and 56,661 students attended 12 state universities using a Prepaid Plan. Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 10-11.

⁶ Section 1009.98(7), F.S.

⁷ Section 1009.98(2), F.S.

⁸ Florida Prepaid College Board, *Plans & Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

⁹ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 7.

¹⁰ Florida Prepaid College Plan, *Plans and Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

State University Dormitory Plan

Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university.¹¹ The dormitory plan is designed to pay for a double-occupancy, air-conditioned dormitory room at a state university in Florida. Qualified beneficiaries have the highest priority in the assignment of housing within university residence halls. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan.¹² The value of the dormitory plan may be used to cover other university-held housing, as approved by the Prepaid Board.¹³ The Prepaid Board will provide a specified refund if the university does not have available units, or if the student lives off-campus or in privately held housing.¹⁴

Florida College System Dormitory Plan

A qualified beneficiary who chooses to attend an FCS institution, or who is not admitted to a state university, may use the fees associated with a dormitory residence plan for dormitory or residency opportunities operated by an FCS institution or FCS institution direct-support organization (DSO).¹⁵ Such dormitory fees may not exceed the maximum fees charged for state university dormitories, or the fees charged for an FCS institution or FCS institution DSO, whichever is less.¹⁶

An FCS institution or DSO has limited authority to plan and construct facilities and to acquire additional property.¹⁷ Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.¹⁸ However, Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern,¹⁹ which meets planning and development requirements, to construct dormitories for up to 300 beds for FCS institution students.²⁰

¹¹ Section 1009.98(2)(d), F.S. A maximum of two semesters of dormitory fees may be prepaid for each year of state university coverage. *Id.*

¹² Section 1009.98(2)(d), F.S.

¹³ Florida Prepaid, *Prepaid Plans FAQs, Dormitory Specific Questions*, <https://www.myfloridaprepaid.com/prepaid-plans/faqs/#what-residence-halls-are-covered> (last visited Mar. 12, 2019).

¹⁴ If there are no available units, the refund will equal the statewide average for eligible double-occupancy, air-conditioned dormitory rooms payable by the Prepaid Plan in the State of Florida. If the student lives off-campus or in privately held housing, then the refund is equal to payments made, less any fees, usage and other refunds. *Id.*

¹⁵ Section 1009.98(2)(d), F.S.

¹⁶ *Id.*

¹⁷ Section 1013.40, F.S.

¹⁸ Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

¹⁹ Section 380.05, F.S. The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources. The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

²⁰ Section 1013.40(4), F.S. Currently, only Florida Keys Community College meets this requirement and is able to construct such dormitory facilities.

Florida Prepaid College Board Direct-Support Organization

In 1989, the Legislature authorized the Prepaid Board to establish a direct support organization.²¹ The Prepaid Board subsequently established the Stanley G. Tate Florida Prepaid College Foundation (Foundation) to provide scholarships to students who may not have otherwise had the opportunity to go to college.²²

The chair and the executive director of the Prepaid Board serve as directors of the Foundation and jointly name, at a minimum, three other individuals to serve as directors of the Foundation.²³

III. Effect of Proposed Changes:

This bill amends s. 1009.98, F.S., to authorize a beneficiary at a state university to use the fees associated with a dormitory residence plan to cover the costs of housing provided by a qualified nonprofit organization that is approved by the state university. In addition, the bill authorizes that a beneficiary at a Florida College System (FCS) institution may use the fees associated with a dormitory residence plan to cover the costs of housing provided by a qualified nonprofit organization that is approved by the FCS institution.

The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code²⁴ that provides dormitories or residency opportunities to full-time students at a FCS institution or state university, primarily supports students that lack financial resources, and has been approved by the Florida Prepaid Board for inclusion in the dormitory residence plan.

The bill also specifies that the fees from a dormitory residence plan paid to a qualified nonprofit organization may not exceed the average fees charged for state university dormitory residences, or for fees charged for FCS institution or FCS institution direct-support organization dormitories or residency opportunities, whichever is less.

The bill also modifies the membership of the Florida Prepaid Board’s direct-support organization (DSO), to specify that only the chair of the Prepaid Board serves as director of the DSO. In addition, the bill requires that the chair of the Prepaid Board and the executive director of the Florida Prepaid College Program appoint four, rather than three, other individuals to serve as directors of the DSO.

The bill takes effect July 1, 2019.

²¹ Section 1, ch. 1989-316, L.O.F., codified as section 240.551(22), F.S., recodified in 2002 as section 1009.983(1), F.S.

²² Stanley G. Tate Florida Prepaid College Foundation, *2017 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/documents/pdf/foundation/foundation-annual-report-2017.pdf> at 3.

²³ Section 1009.983(5), F.S.

²⁴ To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. Organizations described in section 501(c)(3) are commonly referred to as charitable organizations. Internal Revenue Service, *Exemption Requirements - 501(c)(3) Organizations*, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited Mar. 12, 2019).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no fiscal impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.98 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on April 11, 2019:

The committee substitute modifies the membership of the Florida Prepaid College Board (Prepaid Board) direct-support organization (DSO) to specify that the chair of the Prepaid Board serves as director of the DSO, and that the chair and the executive director of the Florida Prepaid College Program appoint four, rather than three, other individuals to serve as directors of the DSO.

CS by Education on March 19, 2019:

The committee substitute:

- Maintains the provision in the bill that a state university may approve a qualified nonprofit organization that provides housing, but provides a technical process change to specify that a state university may transfer or cause to have transferred dormitory residence fees to such nonprofit organization.
- Specifies that a Florida College System (FCS) institution may approve a qualified nonprofit organization that provides housing, and that the FCS institution may transfer or cause to have transferred dormitory residence fees to such nonprofit organization.
- Maintains in the definition of a qualified nonprofit organization the requirement relating to the Internal Revenue Code, but modifies the definition by:
 - Removing the requirement that student living housing provided by a qualified nonprofit organization must be on or near the state university or FCS institution campus; and
 - Adding to the definition that the nonprofit organization must primarily support students that lack financial resources, and that the nonprofit organization must be approved by the Florida Prepaid Board for inclusion in the dormitory residence plan.
- Changes the restriction on fees paid to a qualified nonprofit organization to specify that the fees may not exceed the average fees, rather than maximum fees, charged for dormitories or residences at state universities, FCS institutions, or FCS institution direct-support organizations.

- B. **Amendments:**

None.