

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Know Before You Owe Private Education Loan Act.

Section 5. Definitions. As used in this Act:

"Annual percentage rate" means the percentage rate calculated according to the Federal Reserve Board's methodology as set forth under Regulation Z, 12 CFR Part 1026.

"Income share agreement" means an agreement under which a borrower commits to pay a percentage of his or her future income in exchange for money, payments, or credits applied to or on behalf of a borrower. An income share agreement constitutes a loan and debt within the meaning of this Act.

"Income share agreement provider" means:

(1) a person that provides money, payments, or credits to or on behalf of a borrower pursuant to the terms of an income share agreement; or

(2) any other person engaged in the business of soliciting, making, funding, or extending income share agreements.

"Institution of higher education" includes, but is not limited to, institutions falling under the Private Business

and Vocational Schools Act of 2012, the Private College Act, and public institutions of higher education as defined in Section 1 of the Board of Higher Education Act. "Institution of higher education" also includes a person engaged in the business of providing postsecondary education, via correspondence, online, or in this State, to a person located in this State, regardless of whether the person has obtained authorization from the Illinois Board of Higher Education to operate in this State or is accredited.

"Private educational lender" and "private education loan" have the meanings ascribed to the terms in Section 140 of the Truth in Lending Act (15 U.S.C. 1650). In addition, "private educational lender" includes an income share agreement provider and a student financing company and "private education loan" includes an income share agreement and student financing.

"Student financing company" means a person engaged in the business of securing, making, or extending student financing. "Student financing company" does not include the following persons, only to the extent that State regulation is preempted by federal law:

- (1) a federally chartered bank, savings bank, savings and loan association, or credit union;
- (2) a wholly owned subsidiary of a federally chartered bank or credit union; and
- (3) an operating subsidiary where each owner of the

operating subsidiary is wholly owned by the same federally chartered bank or credit union.

"Student financing" means an extension of credit that:

(1) is not made, insured, or guaranteed under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

(2) is extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the extension of credit is provided by the institution of higher education that the student attends;

(3) does not include a private education loan;

(4) does not include an income share agreement; and

(5) does not include a loan that is secured by real property or a dwelling.

Section 10. Institutional certification required.

(a) In general. Except as provided in subsection (b) of this Section, before a private educational lender may disburse any funds with respect to a private education loan described in this Act, the private educational lender shall obtain from the relevant institution of higher education where such loan is to be used on the behalf of the borrower, such institution's certification of:

(1) the enrollment status of the borrower;

(2) the borrower's cost of attendance at the

institution as determined by the institution under Title IV, Part F, of the Higher Education Act of 1965 as amended; and

(3) the difference between:

(A) such cost of attendance; and

(B) the borrower's estimated financial assistance, including such assistance received under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and other financial assistance known to the institution, as applicable.

(b) Notwithstanding subsection (a), a private educational lender may disburse funds with respect to a private education loan described in this subsection without obtaining the institution's certification if the institution fails to provide the certification within 15 business days of the private educational lender's request for the certification if the private educational lender has received:

(1) notification of the institution's refusal to certify the request; or

(2) notification that the institution has received the request for certification and will need additional time to comply with the certification request.

(c) Loans disbursed without certification. If a private educational lender disburses funds without obtaining the certification as described in subsection (b), the private educational lender shall report the disbursement of the funds

in a manner determined by the Student Loan Ombudsman.

(d) Notification of loans disbursed without certification. On or before the date a private educational lender issues any funds with respect to a private education loan described in this Section, the private educational lender shall notify the relevant institution of higher education, in writing, of the amount of the extension of credit and the borrower on whose behalf credit is extended.

(e) Annual report. A private educational lender that disburses funds with respect to a private education loan described in this Section shall prepare and submit an annual report to the Department of Financial and Professional Regulation and the Student Loan Ombudsman containing the required information about private education loans to be determined by the Student Loan Ombudsman. Such a report shall include, at a minimum, the following information about private education loans described in this Section, including any private education loans disbursed without certification:

(A) a list of all institutions of higher education at which a private educational lender disburses funds with respect to a private education loan described in this Section;

(B) the volume of private education loans described in this Section made annually by a private educational lender;

(C) the volume of private education loans described in

this Section made annually at each school identified under paragraph (A);

(D) the historical lifetime default rate for borrowers obtaining a private education loan described in this Section from the private educational lender; and

(E) a copy of each model or template promissory note, agreement, contract or other instrument used by a private educational lender during the previous year to substantiate that a private education loan described in this Section has been extended to the borrower or that a borrower owes a debt to the private educational lender.

(f) Annual report exemption. A private educational lender that funds 10 or fewer new private education loans in a calendar year shall be exempt from submitting the annual report for that year. Any lender claiming this exemption shall submit a statement to the Department of Financial and Professional Regulation and the Student Loan Ombudsman certifying the number of private education loans made in that calendar year.

Section 15. Provision of information.

(a) Provision of loan statement to borrowers.

(1) Loan statement. A private educational lender that disburses any funds with respect to a private education loan described in this Section shall send loan statements, to the borrowers of those funds not less than once every 3

months during the time that the borrower is enrolled at an institution of higher education.

(2) Contents of statements for income share agreements. Each statement described in subparagraph (1) with respect to income share agreements, shall:

(A) report the consumer's total amounts financed under each income share agreement;

(B) report the percentage of income payable under each income share agreement;

(C) report the maximum number of monthly payments required to be paid under each income share agreement;

(D) report the maximum amount payable under each income share agreement;

(E) report the maximum duration of each income share agreement;

(F) report the minimum annual income above which payments are required under each income share agreement; and

(G) report the annual percentage rate for each income share agreement at the minimum annual income above which payments are required and at \$10,000 income increments thereafter up to the annual income where the maximum number of monthly payments results in the maximum amount payable.

(3) Contents of all other loan statements. Each statement described in subparagraph (1) that does not fall

under subparagraph (2) shall:

(A) report the borrower's total remaining debt to the private educational lender, including accrued but unpaid interest and capitalized interest;

(B) report any debt increases since the last statement; and

(C) list the current annual percentage rate for each loan.

(b) Certification of exhaustion of federal student loan funds to private educational lender. Upon the request of a private educational lender, acting in connection with an application initiated by a borrower for a private education loan in accordance with Section 5, the institution of higher education shall within 15 days of receipt of the request provide certification to such private educational lender:

(1) that the borrower who initiated the application for the private education loan, or on whose behalf the application was initiated, is enrolled or is scheduled to enroll at the institution of higher education;

(2) of the borrower's cost of attendance at the institution of higher education as determined under paragraph (2) of subsection (a) of this Section;

(3) of the difference between:

(A) the cost of attendance at the institution of higher education; and

(B) the borrower's estimated financial assistance

received under the federal Higher Education Act of 1965 and other assistance known to the institution of higher education, as applicable;

(4) that the institution of higher education has received the request for certification and will need additional time to comply with the certification request; and

(5) if applicable, that the institution of higher education is refusing to certify the private education loan.

(c) Certification of exhaustion of federal student loan funds to borrower. With respect to a certification request described under subsection (b), and prior to providing such certification in paragraph (1) of subsection (b) or providing notice of the refusal to provide certification under paragraph (5) of subsection (b), the institution of higher education shall:

(1) determine whether the borrower who initiated the application for the private education loan, or on whose behalf the application was initiated, has applied for and exhausted the federal financial assistance available to such borrower under the federal Higher Education Act of 1965 and inform the borrower accordingly;

(2) provide the borrower whose loan application has prompted the certification request by a private educational lender, as described in paragraph (1) of

subsection (b), with the following information and disclosures:

(A) the amount of additional federal student assistance for which the borrower is eligible and the advantages of federal loans under the federal Higher Education Act of 1965, including disclosure of income driven repayment options, fixed interest rates, deferments, flexible repayment options, loan forgiveness programs, additional protections, and the higher student loan limits for dependent borrowers whose parents are not eligible for a Federal Direct PLUS Loan;

(B) the borrower's ability to select a private educational lender of the borrower's choice;

(C) the impact of a proposed private education loan on the borrower's potential eligibility for other financial assistance, including federal financial assistance under the federal Higher Education Act; and

(D) the borrower's right to accept or reject a private education loan within the 30-day period following a private educational lender's approval of a borrower's application and the borrower's 3-day right to cancel period; and

(3) Any institution of higher education that is also acting as a private educational lender shall provide the certification of exhaustion of federal student loan funds

described in paragraphs (1) and (2) of this subsection (c) to the borrower prior to disbursing funds to the borrower. Any institution of higher education that is not eligible for funding under Title IV of the federal Higher Education Act of 1965 is not required to provide this certification to the borrower.

Section 20. Annual certification and maintenance of approval.

(a) Certification. An institution of higher education must certify annually to the Board of Higher Education, and the Illinois Community College Board where applicable, whether it has made all certifications required under subsections (b) and (c) of Section 15.

(b) Maintenance of approval. In each instance where the Board of Higher Education or the Illinois Community College Board provides the institution of higher education with approval to operate, the certification provided pursuant to this Section shall be required for the maintenance of approval to operate.

Section 99. Effective date. This Act takes effect upon becoming law.