



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5361

by Rep. Lamont J. Robinson, Jr.

SYNOPSIS AS INTRODUCED:

New Act

Amends the Higher Education Loan Act. Creates the Know Before You Owe Private Education Loan Act. Provides that before a private educational lender makes a private education loan to a student who attends an institution of higher education, the private educational lender must obtain certification from the institution about the student borrower's: (i) enrollment status, (ii) cost of attendance, and (iii) the difference between the cost of attendance and the borrower's estimated financial assistance from all sources. Allows a private educational lender to disburse the funds of a private education loan if the institution of higher education fails to provide the requested certification within 15 business days of the request. Requires the private educational lender to provide notice to the institution that the loan has been disbursed without the certification. Requires a private educational lender to submit annual reports to the Department of Financial and Professional Regulation and to the Student Loan Ombudsman. Sets forth the requirements that must be included on the loan statement of a private educational loan. Provides that the institution of higher education must inform the student borrower of his or her lending options and whether the student has applied for or exhausted all available sources of federal financial assistance. Effective immediately.

LRB101 17386 CMG 66791 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

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

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

6 Section 5. Definitions. For the purposes of this Act:

7 "Income share agreement" means an agreement between an
8 income share agreement provider and a borrower under which the
9 borrower commits to pay a percentage of his or her future
10 income in exchange for money, payments, or credits applied to
11 or on behalf of a borrower. An income share agreement shall
12 constitute a loan and debt within the meaning of this Act.

13 "Income share agreement provider" means:

14 (1) Any person that directly or indirectly provides
15 money, payments, or credits directly to or on behalf of a
16 borrower pursuant to the terms of an income share
17 agreement; or

18 (2) Any person that participates in the creation or
19 administration of an income share agreement, including:

20 (A) designing terms or conditions;

21 (B) calculating the amount of eligible funding for
22 a borrower;

23 (C) calculating, collecting, or processing

1 payments;

2 (D) collecting income from any source;

3 (E) providing underwriting assistance;

4 (F) arranging one or more income-based financing
5 transactions; or

6 (G) performing any other administrative service
7 pursuant to the terms of an income share agreement.

8 "Income share agreement provider" includes an assignee of
9 an income share agreement.

10 "Institution of higher education" includes, but is not
11 limited to, institutions falling under the Private Business and
12 Vocational Schools Act, the Private College Act, and public
13 institutions of higher education as defined in Section 1 of the
14 Board of Higher Education Act.

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

21 Section 10. Institutional certification required.

22 (a) In general. Except as provided in subsection (b) of
23 this Section, before a private educational lender may disburse
24 any funds with respect to a private education loan described in
25 this Act, the private educational lender shall obtain from the

1 relevant institution of higher education where such loan is to
2 be used on the behalf of the borrower, such institution's
3 certification of:

4 (1) the enrollment status of the borrower;

5 (2) the borrower's cost of attendance at the
6 institution as determined by the institution under Title
7 IV, Part F, of the Higher Education Act of 1965 as amended;
8 and

9 (3) the difference between:

10 (A) such cost of attendance; and

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

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

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

25 (2) notification that the institution has received the
26 request for certification and will need additional time to

1 comply with the certification request.

2 (c) Loans disbursed without certification. If a private
3 educational lender disburse funds without obtaining the
4 certification as described in subsection (b), the private
5 educational lender shall report the disbursement of the funds
6 in a manner determined by the Student Loan Ombudsman.

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

14 (e) Annual report. A private educational lender that
15 disburses funds with respect to a private education loan
16 described in this Section shall prepare and submit an annual
17 report to the Department of Financial and Professional
18 Regulation and the Student Loan Ombudsman containing the
19 required information about private student loans to be
20 determined by the Student Loan Ombudsman.

21 Section 15. Provision of information.

22 (a) Provision of loan statement to borrowers.

23 (1) Loan statement. A private educational lender that
24 disburses any funds with respect to a private education
25 loan described in this Section shall send loan statements,

1 to the borrowers of those funds not less than once every 3
2 months during the time that the borrower is enrolled at an
3 institution of higher education.

4 (2) Contents of loan statement. Each statement
5 described in subparagraph (1) shall:

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

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

11 (C) list the current interest rate for each loan.

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

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

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

26 (3) of the difference between:

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

3 (B) the borrower's estimated financial assistance
4 received under the Higher Education Act of 1965 and
5 other assistance known to the institution of higher
6 education, as applicable;

7 (4) notify the private educational lender that the
8 institution of higher education has received the request
9 for certification and will need additional time to comply
10 with the certification request; or

11 (5) provide notice to the private educational lender of
12 the institution of higher education's refusal to certify
13 the private education loan.

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

21 (1) determine whether the borrower who initiated the
22 application for the private education loan, or on whose
23 behalf the application was initiated, has applied for and
24 exhausted the federal financial assistance available to
25 such borrower under the Federal Higher Education Act of
26 1965 and inform the borrower accordingly; and

1 (2) provide the borrower whose loan application has
2 prompted the certification request by a private
3 educational lender, as described in paragraph (1) of
4 subsection (b), with the following information and
5 disclosures:

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

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

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

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

1 Section 20. Annual certification and maintenance of
2 approval.

3 (a) Certification. Each institution of higher education
4 must certify annually to the Board of Higher Education, and the
5 Illinois Community College Board where applicable, whether it
6 has made all certifications required under subsections (b) and
7 (c) of Section 10.

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

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