



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3844

Introduced 2/14/2020, by Sen. Pat McGuire

#### 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 17329 CMG 66734 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.