



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2746

Introduced 2/19/2021, by Rep. Katie Stuart and Kambium Buckner

SYNOPSIS AS INTRODUCED:

New Act

Creates the Know Before You Owe Private Education Loan Act. Requires private educational lenders to obtain from the relevant institution of higher education at which the borrower will use the loan proceeds certifications regarding cost, enrollment status of the borrower, and financial assistance available to the borrower. Provides that private educational lenders must file reports with the Department of Financial and Professional Regulation and the Student Loan Ombudsman. Provides that loan statements must be provided not less frequently than quarterly. Requires institutions of higher education to certify compliance with provisions of the Act to the Board of Higher Education or Illinois Community College Board as a condition to operate. Defines terms. Effective immediately.

LRB102 14627 JLS 19980 b

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. As used in this Act:

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

12 "Income share agreement provider" means:

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

16 (2) a person that participates in the creation or
17 administration of an income share agreement, including by:

18 (A) providing, originating, or underwriting
19 services or assistance;

20 (B) calculating, collecting, or processing
21 payments;

22 (C) collecting income from any source;

23 (D) arranging one or more income-based financing

1 transactions; or

2 (E) performing any other administrative service
3 pursuant to the terms of an income share agreement; or

4 (3) an assignee or recipient of the proceeds of an
5 income share agreement.

6 "Institution of higher education" includes, but is not
7 limited to, institutions falling under the Private Business
8 and Vocational Schools Act of 2012, the Private College Act,
9 and public institutions of higher education as defined in
10 Section 1 of the Board of Higher Education Act. "Institution
11 of higher education" also includes a person engaged in the
12 business of providing postsecondary education, via
13 correspondence, online, or in this State, to a person located
14 in this State, regardless of whether the person has obtained
15 authorization from the Illinois Board of Higher Education to
16 operate in this State or is accredited.

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

24 "Student financing company" means a person engaged in the
25 business of securing, making, or extending student financing.

26 "Student financing company" does not include the following

1 persons, only to the extent that State regulation is preempted
2 by federal law:

3 (1) a federally chartered bank, savings bank, savings
4 and loan association, or credit union;

5 (2) a wholly owned subsidiary of a federally chartered
6 bank or credit union; and

7 (3) an operating subsidiary where each owner of the
8 operating subsidiary is wholly owned by the same federally
9 chartered bank or credit union.

10 "Student financing" means an extension of credit that:

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

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

19 (3) does not include a private education loan;

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

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

23 Section 10. Institutional certification required.

24 (a) In general. Except as provided in subsection (b) of
25 this Section, before a private educational lender may disburse

1 any funds with respect to a private education loan described
2 in this Act, the private educational lender shall obtain from
3 the relevant institution of higher education where such loan
4 is to be used on the behalf of the borrower, such institution's
5 certification of:

6 (1) the enrollment status of the borrower;

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

11 (3) the difference between:

12 (A) such cost of attendance; and

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

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

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

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

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

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

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

26 (A) a list of all institutions of higher education at

1 which a private education lender disburses funds with
2 respect to a private education loan described in this
3 Section;

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

6 (C) the volume of private education loans described in
7 this Section made annually at each school identified under
8 paragraph (A);

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

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

18 Section 15. Provision of information.

19 (a) Provision of loan statement to borrowers.

20 (1) Loan statement. A private educational lender that
21 disburses any funds with respect to a private education
22 loan described in this Section shall send loan statements,
23 to the borrowers of those funds not less than once every 3
24 months during the time that the borrower is enrolled at an
25 institution of higher education.

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

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

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

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

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

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

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

23 (3) of the difference between:

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

26 (B) the borrower's estimated financial assistance

1 received under the federal Higher Education Act of
2 1965 and other assistance known to the institution of
3 higher education, as applicable;

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

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

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

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

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

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

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

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

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

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

24 Section 20. Annual certification and maintenance of
25 approval.

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

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

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