

AN ACT

relating to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this chapter expires September 1, 2017 [~~2005~~].

SECTION 2. Sections 57.13(a), (b), and (c), Education Code, are amended to read as follows:

(a) The corporation is governed by a board of 11 [~~nine~~] directors [~~appointed~~] in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint 10 [~~nine~~] members to the board as follows:

(1) five [~~Four~~] members who must have knowledge of or experience in finance, including management of funds or business operations;

(2) one [~~One~~] member who must be a student [~~who is~~] enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution; and

(3) four [~~Three~~] members who must be members of the

1 faculty or administration of an eligible postsecondary educational  
2 institution, as defined by Section 57.46 [~~of this code~~].

3 (c) Appointments to the board shall be made without regard  
4 to the race, color, disability [~~handicap~~], sex, religion, age, or  
5 national origin of the appointees.

6 SECTION 3. Sections 57.131(a), (b), (c), and (d), Education  
7 Code, are amended to read as follows:

8 (a) In this section, "Texas trade association" means a  
9 cooperative and voluntarily joined statewide association of  
10 business or professional competitors in this state designed to  
11 assist its members and its industry or profession in dealing with  
12 mutual business or professional problems and in promoting their  
13 common interest. [~~An officer, employee, or paid consultant of a~~  
14 ~~Texas trade association of institutions that originate or hold~~  
15 ~~student loans or a Texas trade association in the field of higher~~  
16 ~~education may not be a member of the board or a corporation employee~~  
17 ~~who is exempt from the corporation's position classification~~  
18 ~~schedule.~~]

19 (b) A person may not be a member of the board and may not be a  
20 corporation employee employed in a "bona fide executive,  
21 administrative, or professional capacity," as that phrase is used  
22 for purposes of establishing an exemption to the overtime  
23 provisions of the federal Fair Labor Standards Act of 1938 (29  
24 U.S.C. Section 201 et seq.) if:

25 (1) the person is an officer, employee, or paid  
26 consultant of a Texas trade association of institutions that  
27 originate or hold student loans or a Texas trade association in the

1 field of higher education; or

2 (2) the person's spouse is an officer, manager, or paid  
3 consultant of a Texas trade association of institutions that  
4 originate or hold student loans or a Texas trade association in the  
5 field of higher education. [A person who is the spouse of an  
6 officer, manager, or paid consultant of a Texas trade association  
7 described by Subsection (a) of this section may not be a member of  
8 the board and may not be a corporation employee who is exempt from  
9 the corporation's position classification schedule.]

10 (c) A person may not be [~~serve as~~] a member of the board or  
11 act as the general counsel to the board or the corporation if the  
12 person is required to register as a lobbyist under Chapter 305,  
13 Government Code, because of the person's activities for  
14 compensation on behalf of a profession related to the operation of  
15 the corporation.

16 (d) A person may not be one of the members of the board  
17 required by Section 57.13(b) [~~of this code~~] to have knowledge of or  
18 experience in finance if the person is a member of the board of  
19 directors or an employee of an eligible lender that participates in  
20 the guaranteed student loan program.

21 SECTION 4. Subchapter B, Chapter 57, Education Code, is  
22 amended by adding Section 57.1311 to read as follows:

23 Sec. 57.1311. TRAINING PROGRAM. (a) A person who is  
24 appointed to and qualifies for office as a member of the board may  
25 not vote, deliberate, or be counted as a member in attendance at a  
26 meeting of the board until the person completes a training program  
27 that complies with this section.

1        (b) The training program must provide the person with  
2 information regarding:

3            (1) the provisions of this chapter and the  
4 corporation's programs, functions, rules, and budget;

5            (2) the results of the most recent formal audit of the  
6 corporation;

7            (3) the requirements of laws relating to open  
8 meetings, public information, and conflicts of interest; and

9            (4) any applicable ethics policies adopted by the  
10 corporation or the Texas Ethics Commission.

11        SECTION 5. Section 57.14, Education Code, is amended to  
12 read as follows:

13        Sec. 57.14. DIRECTORS' TERMS OF OFFICE. Members of the  
14 board appointed by the governor serve for terms of six years, with  
15 the terms of three [~~two~~] or four [~~three~~] members, as applicable,  
16 expiring on January 31 of each odd-numbered year.

17        SECTION 6. Section 57.141, Education Code, is amended to  
18 read as follows:

19        Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground  
20 for removal of an appointed member from the board that the [~~if a~~]  
21 member:

22            (1) does not have at the time of taking office  
23 [~~appointment~~] the qualifications required by Section 57.13(b) [~~of~~  
24 ~~this code~~];

25            (2) does not maintain during service on the board the  
26 qualifications required by Section 57.13(b) [~~of this code~~];

27            (3) is ineligible for membership under [~~violates a~~

1 ~~prohibition established by~~ Section 57.131 ~~[of this code]~~;

2 (4) cannot, because of illness or disability,  
3 discharge the member's duties for a substantial part of the member's  
4 term ~~[for which the member is appointed because of illness or~~  
5 ~~disability]~~; or

6 (5) is absent from more than half of the regularly  
7 scheduled board meetings that the member is eligible to attend  
8 during a calendar year without an excuse approved ~~[unless the~~  
9 ~~absence is excused]~~ by a majority vote of the board.

10 (b) The validity of an action of the board is not affected by  
11 the fact that it is ~~[was]~~ taken when a ground for removal of a board  
12 member exists ~~[existed]~~.

13 (c) If the president has knowledge that a potential ground  
14 for removal exists, the president shall notify the presiding  
15 officer ~~[chairman]~~ of the board of the potential ground. The  
16 presiding officer ~~[chairman]~~ shall then notify the governor and the  
17 attorney general that a potential ground for removal exists. If the  
18 potential ground for removal involves the presiding officer, the  
19 president shall notify the next highest ranking officer of the  
20 board, who shall then notify the governor and the attorney general  
21 that a potential ground for removal exists.

22 SECTION 7. Sections 57.19(f) and (i), Education Code, are  
23 amended to read as follows:

24 (f) The president or the president's designee shall prepare  
25 and maintain a written policy statement to assure implementation of  
26 a program of equal employment opportunity under which all personnel  
27 transactions are made without regard to race, color, disability

1 ~~[handicap]~~, sex, religion, age, or national origin. The policy  
2 statement must include:

3 (1) personnel policies, including policies relating  
4 to recruitment, evaluation, selection, appointment, training, and  
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work  
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of  
9 significant underuse in the corporation's work force of all persons  
10 for whom federal or state guidelines encourage a more equitable  
11 balance; and

12 (4) reasonable methods to appropriately address those  
13 areas of significant underuse.

14 (i) The board shall develop and implement ~~[adopt]~~ policies  
15 that clearly separate ~~[define]~~ the policymaking ~~[respective]~~  
16 responsibilities of the board ~~[governing body of the corporation]~~  
17 and the management responsibilities of the president and the staff  
18 of the corporation.

19 SECTION 8. Sections 57.20(a), (b), and (c), Education Code,  
20 are amended to read as follows:

21 (a) The corporation shall maintain a system to promptly and  
22 efficiently act on complaints filed with the corporation. The  
23 corporation shall maintain information about parties to the  
24 complaint, the subject matter of the complaint, a summary of the  
25 results of the review or investigation of the complaint, and its  
26 disposition ~~[board shall prepare information of public interest~~  
27 ~~describing the functions of the board and corporation and the~~

1 ~~procedures by which complaints are filed with and resolved by the~~  
2 ~~board. The corporation shall make the information available to the~~  
3 ~~public and appropriate state agencies].~~

4 (b) The corporation shall make information available  
5 describing its procedures for complaint investigation and  
6 resolution [~~board shall establish methods by which consumers and~~  
7 ~~service recipients are notified of the name, mailing address, and~~  
8 ~~telephone number of the corporation for the purpose of directing~~  
9 ~~complaints to the board or corporation].~~

10 (c) The corporation shall periodically notify the complaint  
11 parties of the status of the complaint until final disposition  
12 [~~keep an information file about each complaint filed with the~~  
13 ~~corporation that the corporation has authority to resolve].~~

14 SECTION 9. Section 57.21, Education Code, is amended by  
15 adding Subsections (c) and (d) to read as follows:

16 (c) Each state agency that conducts higher education and  
17 financial aid outreach activities shall enter into a memorandum of  
18 understanding with the corporation. The memorandum of  
19 understanding must outline how the corporation and the state agency  
20 will coordinate outreach activities to maximize resources and avoid  
21 duplication.

22 (d) The corporation shall report to the legislature not  
23 later than December 1 of each even-numbered year regarding the  
24 level of demand for student financial aid for postsecondary  
25 education in this state.

26 SECTION 10. Subchapter B, Chapter 57, Education Code, is  
27 amended by adding Section 57.2105 to read as follows:

1       Sec. 57.2105. TECHNOLOGY POLICY. The board shall implement  
2 a policy requiring the corporation to use appropriate technological  
3 solutions to improve the corporation's ability to perform its  
4 functions. The policy must ensure that the public is able to  
5 interact with the corporation on the Internet.

6       SECTION 11. Sections 57.491(c), (e), and (h), Education  
7 Code, are amended to read as follows:

8       (c) Annually, each licensing agency shall prepare a list of  
9 the agency's licensees and submit the list to the corporation in  
10 hard copy or electronic form. Using the submitted lists, the [The]  
11 corporation periodically shall:

12           (1) identify the persons who are in default on loans  
13 guaranteed by the corporation; and

14           (2) provide a [~~written~~] list of the names of those  
15 persons to the appropriate licensing agencies in hard copy or  
16 electronic form.

17       (e) A licensing agency shall not renew the license of a  
18 licensee whose name is on the list provided by the corporation under  
19 Subsection (c) [~~of this section~~] unless[+]

20           [~~(1) the renewal is the first renewal following the~~  
21 ~~agency's receipt of the list including the licensee's name among~~  
22 ~~those in default, or~~

23           [~~(2)~~] the licensee presents to the agency a  
24 certificate issued by the corporation certifying that:

25           (1) [A] the licensee has entered a repayment  
26 agreement on the defaulted loan; or

27           (2) [B] the licensee is not in default on a loan



1 guaranteed by the corporation.

2 (h) A licensing agency shall provide written notice of the  
 3 nonrenewal policies established under Subsections (e) [~~-(f)-~~] and  
 4 (g) [~~of this section~~] to each applicant for a license or for renewal  
 5 of a license. The corporation shall provide written notice of those  
 6 same policies on each loan application form provided by the  
 7 corporation and on each promissory note signed by a borrower.  
 8 Failure to provide the notice required by this subsection does not  
 9 affect the default status of a borrower or the prohibitions on  
 10 renewal of a license held by a person in default.

11 SECTION 12. Sections 57.761(a), (b), and (c), Education  
 12 Code, are amended to read as follows:

13 (a) The board [~~president~~] shall appoint an internal auditor  
 14 for the corporation. The internal auditor serves at the will of the  
 15 board, and the internal auditor's budget, audit plans, and staffing  
 16 levels [~~appointment of an internal auditor~~] must be approved by the  
 17 board.

18 (b) The internal auditor shall report to the board or a  
 19 board committee designated by the board [~~president~~]. The board may  
 20 require the internal auditor to submit [~~directly~~] to the board  
 21 certain reports specified by the board.

22 (c) The internal auditor shall consult with the board or [~~a~~]  
 23 board committee [~~as designated by the board, shall meet with the~~  
 24 ~~internal auditor~~] on a regular basis at board or committee  
 25 meetings. At the meetings, the internal auditor shall provide to  
 26 the board or committee information regarding the progress and  
 27 results of the internal auditor's audits under this section.

1 SECTION 13. The following laws are repealed:

2 (1) Section 57.131(e), Education Code;

3 (2) Section 57.20(d), Education Code; and

4 (3) Section 57.491(f), Education Code.

5 SECTION 14. As soon as possible on or after the effective  
6 date of this Act, the governor shall appoint one additional member  
7 to the board of directors of the Texas Guaranteed Student Loan  
8 Corporation for a term expiring January 31, 2011, to ensure that the  
9 composition of the board complies with Section 57.13(b), Education  
10 Code, as amended by this Act.

11 SECTION 15. The changes in law made by this Act to Section  
12 57.131, Education Code, apply only to a member of the board of  
13 directors of the Texas Guaranteed Student Loan Corporation or an  
14 employee of the Texas Guaranteed Student Loan Corporation appointed  
15 or employed after the effective date of this Act. A member of the  
16 board who is serving on the effective date of this Act is governed  
17 by the law as it existed immediately before the effective date for  
18 the remainder of the member's term of office, and the former law is  
19 continued in effect for that purpose. An employee of the Texas  
20 Guaranteed Student Loan Corporation who is employed on the  
21 effective date of this Act is governed by the law in effect  
22 immediately before the effective date as long as the person remains  
23 continuously employed by the corporation, and the former law is  
24 continued in effect for that purpose.

25 SECTION 16. This Act takes effect September 1, 2005.

H.B. No. 2274

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2274 was passed by the House on April 19, 2005, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 2274 was passed by the Senate on May 12, 2005, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor