

1-1 By: Patrick, Hinojosa S.B. No. 1823
1-2 (In the Senate - Filed March 11, 2011; March 24, 2011, read
1-3 first time and referred to Committee on Higher Education;
1-4 April 26, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 26, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1823 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to guaranteed student loans and alternative education
1-11 loans.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Section 53B.47, Education Code,
1-14 is amended to read as follows:

1-15 Sec. 53B.47. GUARANTEED STUDENT LOANS AND ALTERNATIVE
1-16 ~~[ALTERNATE]~~ EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION
1-17 LOAN NOTES.

1-18 SECTION 2. Subsections (a) through (d), (f), and (h),
1-19 Section 53B.47, Education Code, are amended to read as follows:

1-20 (a) An authority may, upon approval of the city or cities
1-21 which created the same, issue revenue bonds or otherwise borrow
1-22 money to obtain funds to purchase or to make guaranteed student
1-23 loans or alternative education loans. Revenue bonds issued for
1-24 such purpose shall be issued in accordance with and with the effect
1-25 provided in this chapter. Such bonds shall be payable from and
1-26 secured by a pledge of revenues derived from or by reason of the
1-27 ownership of guaranteed student loans or alternative education
1-28 loans and investment income after deduction of such expenses of
1-29 operating the loan program as may be specified by the bond
1-30 resolution or trust indenture.

1-31 (b) An authority may cause money to be expended to make or
1-32 purchase for its account guaranteed student loans that are
1-33 guaranteed by the Texas Guaranteed Student Loan Corporation, other
1-34 guaranteed student loans, or alternative education loans that are
1-35 executed by or on behalf of students who:

1-36 (1) are residents of this state; or

1-37 (2) have been admitted to attend an accredited
1-38 institution within this state.

1-39 (c) The authority shall contract with a nonprofit
1-40 corporation, organized under the laws of this state, whereby such
1-41 corporation will provide the reports and other information required
1-42 for continued participation in the federally guaranteed loan
1-43 program provided by the Higher Education Act of 1965, as amended, or
1-44 in an alternative education loan program.

1-45 (d) The authority, as a municipal corporation of the state,
1-46 is charged with a portion of the responsibility of the state to
1-47 provide educational opportunities in keeping with all applicable
1-48 state and federal laws. Nothing in this section shall be construed
1-49 as a prohibition against establishing policies to limit the
1-50 purchase of guaranteed student loans or alternative education loans
1-51 ~~[to guaranteed student loans]~~ executed by students attending school
1-52 in a certain geographical area or by students who are residents of
1-53 the area.

1-54 (f) A nonprofit corporation, whether acting at the request
1-55 of a city or cities under Subsection (e) or acting as a servicer or
1-56 administrator for another corporation that purchases or makes
1-57 guaranteed student loans or alternative education loans, or that on
1-58 its own behalf issues securities or otherwise obtains funds to
1-59 purchase or make guaranteed student loans or alternative education
1-60 loans, may:

1-61 (1) exercise the powers granted by Chapters 20 and 22,
1-62 Business Organizations Code, and any provision of Title 1, Business
1-63 Organizations Code, applicable to a nonprofit corporation [the

2-1 ~~Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,~~
 2-2 ~~Vernon's Texas Civil Statutes)];~~

2-3 (2) service loans purchased or made from its funds or
 2-4 contract with another person to service the loans;

2-5 (3) grant a security interest in a trust estate
 2-6 securing its securities; and

2-7 (4) make investments as authorized by Subsection (e).

2-8 (h) An alternative education loan may be made under this
 2-9 section only by or on behalf of a qualified alternative education
 2-10 loan lender. An alternative education loan may not be in an amount
 2-11 in excess of the difference between the cost of attendance and the
 2-12 amount of other student assistance to the student, other than loans
 2-13 under Section 428B(a)(1), Higher Education Act of 1965 (20 U.S.C.
 2-14 Section 1078-2) (relating to parent loans), for which the student
 2-15 borrower may be eligible. An alternative education loan covered by
 2-16 this subsection is subject to Chapter 342, Finance Code, as
 2-17 applicable, except that:

2-18 (1) the maximum interest rate on the loan may not
 2-19 exceed the rate permitted under Subchapter A, Chapter 303, Finance
 2-20 Code; and

2-21 (2) application and origination fees may be agreed to
 2-22 by the parties and assessed at the inception of the loan, provided
 2-23 that if any such fees constitute additional interest under
 2-24 applicable law, the effective rate of interest agreed to over the
 2-25 stated term of the loan may not exceed the rate allowed by
 2-26 Subchapter A, Chapter 303, Finance Code, and accrued unpaid
 2-27 interest may be added to unpaid principal at the beginning of the
 2-28 agreed repayment period at the borrower's option and in accordance
 2-29 with the terms of the agreement for purposes of determining the
 2-30 total principal amount due at the inception of the repayment
 2-31 period.

2-32 SECTION 3. Subsections (a) and (d), Section 1372.033,
 2-33 Government Code, are amended to read as follows:

2-34 (a) In this section:

2-35 (1) ~~["Additional need" means the additional need of a~~
 2-36 ~~qualified nonprofit corporation determined by subtracting the~~
 2-37 ~~floor allocation for that qualified nonprofit corporation from that~~
 2-38 ~~corporation's annual need.~~

2-39 ~~[(2) "Annual need" means, for a qualified nonprofit~~
 2-40 ~~corporation, one-half of the total principal amount of Texas~~
 2-41 ~~eligible loans the qualified nonprofit corporation purchased in the~~
 2-42 ~~two most recently completed fiscal years ending June 30.~~

2-43 ~~[(3) "Floor allocation" means, for a qualified~~
 2-44 ~~nonprofit corporation, an allocation in the amount of the lesser of~~
 2-45 ~~\$27 million or the qualified nonprofit corporation's annual need.~~

2-46 ~~[(4)] "Qualified nonprofit corporation" has the~~
 2-47 ~~meaning assigned by Section 53B.02(11) [53.47], Education Code.~~

2-48 ~~(2) [(5) "Remaining amount to be allocated" is the~~
 2-49 ~~total amount to be allocated under Section 1372.022(a)(5) in a~~
 2-50 ~~calendar year less the sum of the floor allocations of the qualified~~
 2-51 ~~nonprofit corporations that have applied for a student loan bond~~
 2-52 ~~allocation for the calendar year.~~

2-53 ~~[(6)] "Student loan bond allocation" means the total~~
 2-54 ~~amount of the [an] allocation for private activity bonds under~~
 2-55 ~~Section 1372.022(a)(5) for a program year divided by the number of~~
 2-56 ~~qualified nonprofit corporation applicants that comply with all~~
 2-57 ~~applicable application requirements for that year.~~

2-58 ~~[(7) "Texas eligible loan" means a Texas loan~~
 2-59 ~~purchased from the originating lender by a nonprofit corporation~~
 2-60 ~~acting as described by Section 53.47(g), Education Code.~~

2-61 ~~[(8) "Texas loan" means a guaranteed student loan, as~~
 2-62 ~~defined by Section 53.47, Education Code, made on behalf of a~~
 2-63 ~~borrower who is:~~

2-64 ~~[(A) a resident of this state, or~~

2-65 ~~[(B) a student attending an accredited~~
 2-66 ~~institution, as defined by Section 53.47, Education Code, that is~~
 2-67 ~~located in this state.~~

2-68 ~~[(9) "Total amount to be allocated" means the total~~
 2-69 ~~available under Section 1372.022(a)(5) for all applicants.]~~

3-1 (d) Each qualified nonprofit corporation that applies for a
3-2 student loan bond allocation in compliance with all applicable
3-3 application requirements for a program year is entitled to receive
3-4 a student loan bond [a floor] allocation for that year [~~except as~~
3-5 ~~provided by this section. If the total amount to be allocated is~~
3-6 ~~less than the sum of the floor allocations for all of the~~
3-7 ~~applicants, each applicant is entitled to a proportion of the total~~
3-8 ~~amount to be allocated equal to the proportion its floor allocation~~
3-9 ~~bears to the total of the floor allocation for all of the~~
3-10 ~~applicants. A qualified nonprofit corporation whose annual need is~~
3-11 ~~zero is not entitled to apply for a student loan bond allocation].~~

3-12 SECTION 4. Subsections (c), (e), and (f), Section 1372.033,
3-13 Government Code, are repealed.

3-14 SECTION 5. The change in law made by this Act to Section
3-15 1372.033, Government Code, applies to the allocation of the
3-16 available state ceiling under that section beginning with the 2011
3-17 program year under Chapter 1372, Government Code.

3-18 SECTION 6. This Act takes effect immediately if it receives
3-19 a vote of two-thirds of all the members elected to each house, as
3-20 provided by Section 39, Article III, Texas Constitution. If this
3-21 Act does not receive the vote necessary for immediate effect, this
3-22 Act takes effect September 1, 2011.

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