

ACT No. 437

2019 Regular Session

HOUSE BILL NO. 562

BY REPRESENTATIVE EMERSON AND SENATOR MORRISH

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AN ACT

To amend and reenact R.S. 17:7(8) and 11 and R.S. 36:651(L) and 801.5(A), to enact R.S. 17:3140.1 through 3140.17, and to repeal R.S. 17:3141.1 through 3141.19, relative to proprietary schools; to provide for technical corrections and recodification of statutory provisions relative to proprietary schools; to provide for the regulation and oversight of proprietary schools by the Board of Regents including licensure, applications, fees, appeals, and degree granting; to provide with regard to the Advisory Commission on Proprietary Schools and the Proprietary School Student Protection Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:7(8) and 11 are hereby amended and reenacted and R.S. 17:3140.1 through 3140.17 are hereby enacted to read as follows:

§7. Duties, functions, and responsibilities of board

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

* * *

(8) Except as otherwise provided by law, approve ~~private and proprietary~~ nonpublic schools in accordance with the provisions of R.S. ~~17:10~~ 17:11 and any other applicable laws.

* * *

§11. Approval of ~~private~~ nonpublic schools by board

A. The board shall adopt standards and guidelines which shall be applied in determining whether a ~~private or proprietary~~ nonpublic school applying for approval

1 meets the requirements of a sustained curriculum or specialized course of study of
 2 quality at least equal to that prescribed for similar public schools. The board shall
 3 appoint an advisory committee of ~~private and proprietary~~ nonpublic school
 4 representatives, who shall advise and counsel with the board relative to standards and
 5 guidelines affecting these schools. After initial approval the board shall periodically
 6 determine whether the ~~private~~ nonpublic school is maintaining such quality and if
 7 not, shall discontinue approval of the school.

8 B. The board shall approve any ~~private~~ nonpublic elementary; or secondary;
 9 ~~or proprietary~~ school which makes application therefor on a form furnished by the
 10 board, if such school meets and maintains a sustained curriculum or specialized
 11 course of study of quality at least equal to that prescribed for similar public schools.

12 C. All certificates and diplomas issued by an approved ~~private~~ nonpublic
 13 school shall carry the same privileges as one issued by a state public school.

14 * * *

15 §3140.1. Definitions

16 For the purposes of this Chapter:

17 (1) "Academic course" means a subject designed for transfer of credit.

18 (2) "Board" means the Board of Regents.

19 (3) "Commission" means the Advisory Commission on Proprietary Schools.

20 (4) "Notice to the school" means written correspondence sent to the address
 21 contained in the application or affidavit.

22 (5) "Owner" of a school means, if the school is owned by one or more
 23 individuals, each individual; if the school is owned by a partnership, the partnership
 24 and each partner; and if the school is owned by a corporation, the corporation, the
 25 officers and directors of the corporation, and any stockholder who owns five percent
 26 or more of the total aggregate number of shares of all types of stock issued by the
 27 corporation that owns the school or of any corporation owning stock, directly or
 28 indirectly, of the corporation that owns the school.

29 (6) "Proprietary school" or "school":

1 (a) Means any business enterprise operated for a profit or on a nonprofit
2 basis which maintains a place of business within this state, or which sells or offers
3 for sale any course of instruction in this state, or at which place of business such a
4 course or courses of instruction or study is available through classroom or internet
5 instruction, or both, or by any other means, to a person or persons for the purpose of
6 training or preparing for a field of endeavor in a business, trade, technical, or
7 industrial occupation, except as otherwise provided by law.

8 (b) Means, for institutions based out-of-state that provide online instruction
9 within the state of Louisiana, a business enterprise offering online courses that
10 require clinical or practical experiences at a Louisiana site in which students are
11 observed, assisted, or evaluated by supervisors, preceptors, instructors, or other
12 individuals to determine that program requirements have been met.

13 (c) Shall not mean:

14 (i) A school or educational institution supported entirely or partly by public
15 funds from either a local or state source.

16 (ii) A parochial, denominational, or eleemosynary school or institution that
17 provides religious training or theological education. However, any school or
18 institution that also offers training in a secular field of endeavor shall be subject to
19 the provisions of this Chapter.

20 (iii) A school or training program which offers instruction primarily in the
21 fields of recreation, health, entertainment, or personal enrichment and which does
22 not purport to prepare or qualify persons for employment as determined by the
23 commission.

24 (iv) A course or courses of instruction or study sponsored by an employer
25 for the training and preparation of its own employees when the employer is not
26 primarily engaged in the business of selling or offering courses of instruction or
27 study.

28 (v) A course or courses of study or instruction sponsored by a recognized
29 trade, business, or professional organization for the instruction of the members of the
30 organization.

1 (vi) Private colleges and universities which award an associate or higher
2 degree and which maintain and operate educational programs for which students earn
3 credits.

4 (vii) A nonpublic school which provides a basic academic education
5 comparable to that provided in the public schools of the state.

6 (viii) A school offering a program only for children under six years of age.

7 (ix) A school which is regulated and licensed under other laws of this state.

8 (x) A private tutor, teacher, or individual engaged in giving private tutoring
9 or lessons to five persons or less in nonschool connected activities severed from the
10 regular curriculum of a school as determined by the commission.

11 (xi) A day camp.

12 (xii) A training program that offers for sale only nonsequential and
13 noncontinuous courses which do not exceed twenty hours of training.

14 (xiii) A manufacturer-certified training center that offers, at no additional
15 charge to the person receiving training, manufacturer-authorized training that is
16 included as part of the manufacturer's pricing package to prepare persons for
17 certification conferred by the manufacturer and that uses course equipment and
18 materials which are developed and sold by the manufacturer and course instructors
19 and facilities which are certified by the manufacturer.

20 (xiv) A school or business enterprise which offers only instruction to prepare
21 students for tests which are required for entry into a postsecondary program of study.

22 (xv) A school or business enterprise which offers yoga teacher training.

23 (xvi) A school or business enterprise which provides students with advanced
24 training techniques for police and service dogs.

25 (xvii) An educator preparation program that is approved by the State Board
26 of Elementary and Secondary Education.

27 (xviii) Any form of contract training.

28 (7) "School employee" means all instructors, administrators, solicitors, and
29 clerical and office personnel employed by the school.

1 (8) "Solicitor" means a person who solicits business for a proprietary school
 2 or who offers to sell or sells in this state any instruction or course of instruction
 3 offered by a proprietary school.

4 (9) "Teach-out" means the time remaining in a student's course of study.

5 (10) "Treasurer" means the state treasurer.

6 §3140.2. Advisory Commission on Proprietary Schools; creation; membership;
 7 terms; rules and regulations

8 A. There is hereby established under the jurisdiction of the board the
 9 Advisory Commission on Proprietary Schools, comprised of nine members to be
 10 appointed as follows:

11 (1) One member by the commissioner of higher education.

12 (2) Two members by the board.

13 (3) Three members by the Louisiana Association of Private Colleges and
 14 Schools.

15 (4) One member by the Board of Supervisors of Community and Technical
 16 Colleges.

17 (5) One member by the State Association of Better Business Bureaus.

18 (6) One member by the Louisiana Association of Chamber of Commerce
 19 Executives.

20 B.(1) Each member shall serve for a four-year term and shall serve until his
 21 successor is appointed or qualified.

22 (2) Any vacancy occurring in the membership of the commission shall be
 23 filled in the manner of original appointment.

24 C. Members shall serve without compensation but shall be reimbursed for
 25 actual expenses incurred in attending meetings of the commission.

26 D. The commission shall elect annually from its membership a chairman and
 27 a vice chairman.

28 E. The commission shall be advisory in nature, but may have such powers
 29 and duties as set forth in this Chapter, subject to approval of and oversight by the
 30 board. The board may ratify, annul, or modify any decision, finding,

1 recommendation, or order of the commission as it deems appropriate. Any action
2 taken by the commission pursuant to the provisions of this Chapter shall not be
3 effective until ratified by the board.

4 F.(1) The board shall adopt rules and regulations in accordance with the
5 Administrative Procedure Act as deemed necessary to administer the provisions of
6 this Chapter and the functions of the commission. The rules and regulations shall be
7 interpreted and implemented to promote high-quality instruction, consumer
8 protection, and student success. The rules and regulations shall include but not be
9 limited to:

10 (a) Establishing acceptable standards for the conduct of staff and for the
11 operation of schools.

12 (b) Providing for investigation of complaints related to the established
13 standards and for the disposition of complaints.

14 (c) Providing remedies including but not limited to restitution orders, fines,
15 and other appropriate measures for violation of established standards.

16 (d) Providing for a student complaint procedure which shall be applicable
17 to all licensed proprietary schools and include a mechanism for informing all
18 students of the availability of the student complaint procedure.

19 (2) The board shall post the rules and regulations adopted pursuant to this
20 Subsection on the board's website.

21 G. The board shall provide for the monitoring of all proprietary schools to
22 ensure that all advertising and representations made on behalf of a school to a
23 prospective student are truthful and free from misrepresentation and fraud.

24 §3140.3. Licenses; fees; application; renewal

25 A.(1) No proprietary school subject to the provisions of this Chapter shall
26 do business in this state unless the owner holds a valid license approved and issued
27 by the board. Applications for licensure shall be made to the commission as
28 provided in this Chapter and rules established by the board.

29 (2) No course of instruction shall be established, offered, or given, and no
30 diploma, degree, or other written evidence of proficiency or achievement shall be

1 offered or awarded until the owner of the school planning to offer or offering such
2 course of instruction, diplomas, or degrees has obtained a license.

3 (3)(a) No license shall be transferable. In the event of a change of ownership
4 of a school, the license shall be revoked unless the new owner notifies the
5 commission within ten days of the sale and files a license application within the time
6 period prescribed by the board.

7 (b) If the school is owned by a corporation, a change of ownership is deemed
8 to occur when fifty percent or more of all types in the aggregate of the corporation's
9 stock has been transferred to a person or persons other than the person or persons
10 who were stockholders at the time the school license was issued.

11 (c) For the purposes of this Chapter, an application for a change of
12 ownership for a proprietary school already licensed by the board shall be treated as
13 an initial license application with the additional submission of the bill of sale.

14 (4) Each application for a license shall be accompanied by a surety bond in
15 the amount of ten thousand dollars.

16 B.(1) The fee for an initial license or change of ownership shall be two
17 thousand dollars.

18 (2)(a) The annual renewal fee for any school whose previous year's gross
19 tuition income is less than fifty thousand dollars shall be five hundred dollars. The
20 annual renewal fee for any school whose previous year's gross tuition income is
21 equal to or greater than fifty thousand dollars shall be one thousand dollars or the
22 school's previous year's gross tuition income multiplied by twenty-five hundredths
23 of one percent, whichever is greater.

24 (b) Any income earned by a proprietary school for courses of instruction
25 which are not subject to licensure shall not be used in the calculation of license
26 renewal fees for the school.

27 (3) No portion of any fee shall be subject to refund.

28 (4) An additional delinquent fee of five hundred dollars shall be imposed
29 when an application for a license renewal is not received at the commission office
30 at least thirty days prior to its expiration date.

1 (5) The reinstatement licensure fee for a suspended school shall be five
2 hundred dollars.

3 C. An applicant for an initial license shall provide, at a minimum, the
4 following:

5 (1) Properly completed application forms provided by the board.

6 (2) Documentation of the legal structure of the school.

7 (3) A copy of the school's business plan.

8 (4)(a) A current audited balance sheet of the school prepared by an
9 independent, certified public accountant within six months prior to the date of the
10 initial application for licensure.

11 (b) Certification by a school official that all information contained in the
12 balance sheet is true and correct.

13 (5) Verification of surety bond coverage.

14 (6) A list of equipment available for instruction in each course of study
15 offered by the school.

16 (7) A copy of the school catalogue as set forth in this Chapter and by rules
17 established by the board.

18 (8) A copy of the certificate of occupancy or its equivalent issued by the
19 local governing authority.

20 (9) A copy of all enrollment contracts or agreements which students
21 attending the school will be required to sign.

22 (10) A copy of all proposed bulletins, published materials, form letters,
23 circulars, and all advertising which will be transmitted to the public or prospective
24 students.

25 (11) A copy of current accreditation granted by a nationally or regionally
26 recognized accrediting agency approved by the United States Department of
27 Education, if applicable.

28 (12) A detailed outline of each career program, including the number of
29 courses required for completion of each career program and a description of each
30 course.

1 (13) A notarized affidavit stating that neither the owner or solicitor has
2 pleaded guilty to a felony or has been found guilty of a felony.

3 (14) Any other information required by the board.

4 D. An applicant for a license renewal shall provide, at a minimum, the
5 following:

6 (1) Verification of continuation of surety bond coverage.

7 (2)(a) Financial statements of the school prepared by an independent
8 certified public accountant for the previous business year.

9 (b) Certification by a school official that information contained in the
10 balance sheet is true and correct.

11 (3) Documentation of solvency.

12 (4) A copy of the current school catalogue as provided in this Chapter and
13 board rules.

14 (5) A copy of all enrollment contracts or agreements which students will be
15 required to sign.

16 (6) The number of students enrolled, number of students graduated, and the
17 school's placement rate for the previous business year.

18 (7) A copy of current accreditation granted by a nationally or regionally
19 recognized accrediting agency approved by the United States Department of
20 Education, if applicable.

21 (8) Properly completed application forms provided by the board.

22 E. No license shall be renewed for a school that has failed to make any
23 student tuition refunds in the manner provided by state and federal laws and
24 regulations.

25 F. The board may conduct onsite visits and require information as may be
26 necessary to grant a license and monitor institutional compliance with this Chapter.

27 §3140.4. Licenses; minimum standards; duration

28 A. No applicant shall be issued a license pursuant to this Chapter until the
29 board has first determined that the school substantially complies with the following:

30 (1) The school's instructors have the following qualifications:

1 (a) In an academic course, an instructor shall, at a minimum, possess a
2 baccalaureate degree from a bona fide accredited college or university and
3 demonstrate appropriate familiarity with the subject matter taught.

4 (b) In a technical or occupational course, an instructor shall possess, at a
5 minimum, a bona fide high school diploma or its equivalent; a certificate, diploma,
6 license, other degree, or documented evidence of on-the-job training in the area
7 taught; and a minimum of four years of documented occupational experience in the
8 area taught.

9 (2) All advertising and representations made on behalf of the school to
10 prospective students are truthful and free from misrepresentation and fraud.

11 (3) Any dormitory or eating facility provided by the school or for which the
12 school has contracted services is clean, healthful, safe, and adequate for the number
13 of students served and adequately supervised at all times.

14 (4) The premises and conditions under which the students work or study are
15 sanitary, healthful, and safe according to the standards set forth by the Louisiana
16 Department of Health.

17 (5) Prior to enrollment, the student has been provided a written statement of
18 total tuition charges, required fees, all charges for books, equipment, and supplies,
19 and any applicable charges for housing. If housing is not furnished, a statement to
20 that effect shall also be included.

21 (6) The school adheres to the tuition refund schedule established by the
22 board. The refund schedule shall be included in the enrollment contract or agreement
23 and may include an administrative or registration fee for the school that shall not
24 exceed one hundred fifty dollars.

25 (7) The school is equipped and able at all times to comply with its
26 contractual relationships with a student.

27 (8) The facilities, class instruction rooms, housing quarters, and eating
28 facilities are at all reasonable times open to inspection by the commissioner of higher
29 education, authorized staff of the board, the commission, its members and staff, or
30 designated agents and the representatives of the Louisiana Department of Health.

1 (9) All equipment furnished is representative of that customarily used within
2 the industry for which the student is training.

3 (10) The school provides evidence that it meets local and state guidelines
4 and standards, relative to zoning, occupational licensure, health, and safety.

5 B. The board shall act on all applications for licensure within sixty days after
6 receipt of the completed application and all supporting materials required by the
7 board. A license shall be valid only for the school and programs for which it is
8 issued and shall not include other schools or branches operated by the owner.

9 C.(1) Each license shall be valid for not more than one year from the date of
10 issuance and may be renewed thereafter for a period to be determined by the board
11 or until revoked for cause by the board. The effective date of the first license
12 renewal shall be established by the board.

13 (2) Each license shall be assigned a number.

14 (3) Each school shall prominently display its licenses on the school's
15 premises.

16 §3140.5. Surety bond; requirement

17 A. Each application for a license shall be accompanied by a surety bond in
18 the amount of ten thousand dollars. The bond shall be issued by a surety authorized
19 to do business in this state and shall be filed with the board. The term of the bond
20 shall be continuous but shall be subject to cancellation by the surety in the manner
21 provided in this Section.

22 B. The bond shall provide for the indemnification of any person suffering
23 loss or damage as a result of any of the following:

24 (1) Any fraud or misrepresentation used in procuring his enrollment.

25 (2) The failure on the part of the school to carry out and comply with each
26 contract and agreement made and entered into by the school, acting by and through
27 its officers, agents, or representatives with any student.

28 (3) The inability of the student to complete a program of study because the
29 school ceased operation or failed to furnish the facilities advertised or included in the
30 contracted agreement.

1 (4) The failure on the part of the school to adequately maintain all student
2 records including the failure to transfer the records in accordance with the provisions
3 of this Chapter.

4 C. The bond shall be subject to a ten-year prescriptive period for actions or
5 breach of contract.

6 D. The surety bond shall cover the period of the license except when the
7 surety is released as provided in this Section.

8 E. A surety on the bond may be released after the surety has made a written
9 notice directed to the commission and the board at least thirty days prior to the
10 release. The release shall not affect the liability of the surety for acts arising prior to
11 the release of the surety.

12 F. The surety may terminate the bond upon giving a sixty-day written notice
13 to the principal, the commission, and the board. However, the liability of the surety
14 for the acts of the principal and its agents shall continue during the sixty-day period.
15 The notice shall not release the surety from liability which accrues before the
16 cancellation becomes final but which is discovered after that date and which arose
17 at any time during the term of the bond.

18 G. Unless the bond is replaced by that of another surety before the expiration
19 of the sixty-day period, the license shall be suspended by the board.

20 H. Any person required to file a bond may file in lieu thereof a certificate of
21 deposit in the amount of ten thousand dollars. The deposit shall be subject to the
22 same terms and conditions as required for surety bonds. Any interest or earnings on
23 the deposits are payable to the depositor.

24 I. Notwithstanding the provisions of this Section, a proprietary school may
25 not be required to post the surety bond if the school offers only programs that do not
26 exceed four weeks in length, the school has been in continuous operation for at least
27 five years, and the school has met all of the regulations and rules established by the
28 board.

1 §3140.6. Denial of license; hearings; appeal

2 A.(1) If the commission recommends the denial of a license, the applicant
3 shall be notified in writing no later than five business days after the recommendation.

4 (2) An applicant who is recommended for a denial of a license may, within
5 fourteen business days after receipt of notice of the denial, file with the commission
6 a request for a hearing before the commission at its next regular meeting. If a
7 hearing is requested, the matter shall not be presented to the board until the hearing
8 is held by the commission. The applicant may appear in person or by counsel and
9 may present evidence in support of the granting of the license. Any interested person
10 may appear and present oral and documentary evidence to the commission
11 concerning the issuance of a license to the applicant. Strict rules of evidence shall
12 not apply.

13 (3) The commission shall issue a statement not later than seven business
14 days after the hearing giving reasons for its recommendation that a license be granted
15 or denied.

16 (4) A school may continue to operate until a final determination has been
17 made regarding the issuance or denial of its license.

18 B. If the board receives a recommendation from the commission that a
19 license be denied, the applicant may provide a written request for a public hearing
20 before the board at the time the recommendation is considered. If the board denies
21 a license without a public hearing, the applicant may request a hearing at the next
22 meeting of the board.

23 C. An applicant for a license who is dissatisfied with the ruling of board after
24 public hearing may file a written appeal to the district court for the parish in which
25 the applicant resides within ninety days after receipt of a notice of the final
26 determination of the board. Written notice of the appeal shall be served on the
27 presiding officer of the board, stating the reasons therefor.

28 D. A new license shall not be issued to a school if any owner of the school
29 has been or is an owner of a proprietary school that failed to make student tuition

1 refunds in the manner provided by the tuition refund guidelines and any applicable
2 provisions of state and federal law or regulation.

3 §3140.7. Revocation of license; causes; appeal; injunction; subpoena power

4 A. The board, upon the recommendation of the commissioner of higher
5 education or the commission, may suspend, revoke, or cancel any license issued by
6 it or place certain specified conditions upon the continued operation of the school.

7 B. A decision to suspend, revoke, or cancel any license or to place certain
8 specified conditions upon the continued operation of a school shall require a
9 favorable vote by at least two-thirds of the total membership of the board.

10 C. A school with a suspended license may continue to provide instruction to
11 students already enrolled in a course but shall not enroll new students. The
12 suspension shall remain in effect until the deficiency causing the suspension has been
13 remedied.

14 D. The commission may recommend to the board that the license of a school
15 be suspended, revoked, cancelled, or restricted for any of the following reasons:

16 (1) Signing of a license application or holding of a solicitor permit by a
17 person who has pleaded guilty to a felony or has been found guilty of a felony.

18 (2) Failure to comply with a commitment made in an application for a
19 license.

20 (3) Failure to comply with the provisions of this Chapter.

21 (4) Failure to maintain sufficient financial resources as evidenced by
22 applicable financial information or letter of credit reflecting solvency.

23 (5) Acceptance or use by the owner of any school of the services of a
24 solicitor who does not hold a permit required by this Chapter.

25 (6) Failure to comply with any rule or regulation adopted by the board.

26 (7) Use by an employee, solicitor, or representative of a school, with the
27 knowledge of the owner, of fraud or misrepresentation in procuring the enrollment
28 of a student or if an incident is called to the attention of the owner, failure by the
29 owner to take remedial steps including restitution of fees collected and expenses
30 incurred by the prospective student.

1 (8) Failure on the part of the school to comply with every contract and
2 agreement made and entered into by it or by its representative with a student.

3 (9) Use by a school or any school representative of deceptive or fraudulent
4 advertising in any form.

5 (10) Violation of a provision of this Chapter by a school owner.

6 (11) Filing of false information with the commission, the commissioner of
7 higher education, or the board by an owner of a school or by any holder of a license
8 or a permit issued pursuant to this Chapter.

9 (12) Failure of the owner of the school to notify the commission in writing
10 of the withdrawal of accreditation or approval.

11 (13) Failure to provide facilities or equipment for offering courses of
12 instruction in a safe and sanitary condition.

13 (14) Failure to provide the equipment described in the application.

14 (15) Offering an unapproved program.

15 E. The commission shall hold a hearing prior to making a recommendation
16 to the board for the revocation of a license.

17 F. The board shall notify a licensee of its decision to suspend, revoke, or
18 cancel a license. At any time within thirty days prior to the revocation or
19 conditioning of a license, the board shall afford the holder an opportunity to be heard
20 in person or by counsel. Strict rules of evidence shall not apply.

21 G. Within thirty days prior to the date set for a hearing on suspension,
22 revocation, or restriction, the board shall notify the licensee in writing of the date and
23 purpose of the hearing and the grounds for the action contemplated.

24 H. The board shall suspend the license of any school that:

25 (1) Fails to pay required fees or annually submit updated information on
26 changes in staff and school programs, not less than thirty days prior to the expiration
27 date of its license.

28 (2) Is no longer covered by a surety bond or certificate of deposit.

29 I. Any final decision or determination of the board may be appealed to the
30 district court for the parish in which the applicant resides within ninety days after

1 receipt of written notice from the board of the final determination. Written notice
 2 of the appeal shall be served on the presiding officer of the board, stating the reasons
 3 therefor.

4 §3140.8. Prohibited acts; penalty; injunctive relief

5 A. It shall be unlawful for any owner of a school or a representative of a
 6 proprietary school offering courses of instruction in this state to:

7 (1) Operate the school without a valid license.

8 (2) Operate the school without a valid surety bond or certificate of deposit
 9 as required by this Chapter.

10 (3) Use advertising designed to mislead or deceive prospective students.

11 (4) Accept a contract from a solicitor who does not hold a valid permit
 12 issued in accordance with this Chapter.

13 (5) Violate any provisions of this Chapter.

14 B. It shall be unlawful for any person selling or offering to sell courses of
 15 instruction in this state to:

16 (1) Solicit a prospective student without holding a valid permit as required
 17 by this Chapter.

18 (2) Solicit a prospective student without having a surety bond or certificate
 19 of deposit as required by this Chapter.

20 (3) Use fraud or misrepresentation in procuring a student's enrollment.

21 (4) Violate any provisions of this Chapter.

22 C. Any owner, school employee, or solicitor who is found guilty of any act
 23 prohibited by this Chapter shall be guilty of a misdemeanor and shall be fined an
 24 amount not to exceed five hundred dollars. Each day a violation continues shall
 25 constitute a separate offense.

26 D. If the commissioner of higher education or the commission has probable
 27 cause to believe that any owner of a proprietary school or any solicitor who sells or
 28 offers to sell any course of instruction has committed any of the acts prohibited by
 29 this Chapter, the commissioner of higher education shall petition a court of
 30 competent jurisdiction for an injunction against the school or solicitor.

1 §3140.9. Complaints; investigations; hearings; judicial review

2 A. Based on information gathered from its investigation of complaints as
3 provided in this Chapter, the commission shall determine whether a violation of the
4 provisions of this Chapter or rules of the board has occurred. The commission shall
5 send a notice of the violation to the school or to the solicitor specifying the violation,
6 the remedy proposed, and the procedure by which an administrative hearing may be
7 requested.

8 B. For purposes of an investigation or hearing, the commission may
9 administer oaths and affirmations, subpoena witnesses, compel their attendance, take
10 evidence, and require the production of any records which the commission deems
11 relevant or material to the investigation or hearing.

12 C. If a party fails or refuses to obey a subpoena or to comply with a request
13 for information, the board or the commission may make application to the
14 Nineteenth Judicial District Court which shall have jurisdiction to issue an order
15 requiring the party involved to appear before the board, to produce evidence, or to
16 give testimony touching on the matter under consideration. Any failure to obey an
17 order of the court may be punished by the court as contempt.

18 D. Following an opportunity for a hearing, the commission shall transmit its
19 findings and recommendations to the board. The board shall review the findings and
20 recommendations of the commission and shall render a written decision. The board
21 shall consider the record of proceedings conducted before the commission and may
22 accept, reject, or modify the recommendations of the commission and may provide
23 for corrective action including but not limited to restitution orders and fines, which
24 fines shall not exceed five hundred dollars per violation.

25 E. Any party aggrieved by any decision or order of the commission or board
26 may seek judicial review.

27 F. No cause of action shall exist against any student who in good faith makes
28 a complaint, cooperates in the investigation by the commission, or participates in
29 judicial proceedings and each student shall have immunity from civil or criminal
30 liability that might otherwise be incurred or imposed. This immunity from liability

1 shall not extend to any person who makes a complaint known to be false or with
 2 reckless disregard for the truth of the complaint.

3 §3140.10. Cessation of operations

4 A.(1) If a licensed proprietary school makes a determination to cease
 5 operations it shall provide formal written notice to the board at least thirty days prior
 6 to the date it will cease operations.

7 (2) Cessation of operations shall mean the cessation of all instructional and
 8 business operations directly related to the offering of education and training as
 9 authorized under the provisions of this Chapter, with no reasonable prospect of
 10 resuming operations.

11 B. The notice, at a minimum, shall provide the following:

12 (1) Teach-out plans for current students. The teach-out school shall not be
 13 liable for any refunds to a transfer student.

14 (2) Commencement ceremony plans, if the school has offered a ceremony,
 15 for each student who has or will complete all requirements for graduation prior to the
 16 date operations cease.

17 (3) Student notification plans regarding cessation of operations, teach-out
 18 options, and commencement activities, if applicable.

19 (4) Plans for transferring student records to the board.

20 (5) Other information required by the board.

21 C. If a school ceases operations, the board may authorize the seizure and sale
 22 at public auction of all unsecured assets of the school, with all proceeds to be
 23 deposited in the Proprietary School Student Protection Fund.

24 §3140.11. Proprietary School Student Protection Fund

25 A. There shall be established in the state treasury as a special permanent
 26 fund the Proprietary School Student Protection Fund. Following compliance with
 27 the requirements of Article VII, Section 9(B) of the Constitution of Louisiana
 28 relative to the Bond Security and Redemption Fund, all monies generated pursuant
 29 to the provisions of this Section shall be deposited into the Proprietary School
 30 Student Protection Fund, and monies in this fund shall be used solely to make

1 refunds of unearned tuition as provided in this Chapter. The monies in the fund shall
 2 be invested by the state treasurer in the same manner as for the state general fund and
 3 interest earned on the investment of these monies shall be credited to the fund. All
 4 unexpended and unencumbered monies in the fund at the end of a fiscal year shall
 5 remain in the fund and be available for expenditure in the next fiscal year. The
 6 legislature shall make yearly appropriations from the fund to the board for the
 7 purposes of the proprietary school student protection program.

8 B.(1) Each licensed proprietary school shall make payments to the
 9 Proprietary School Student Protection Fund. The first payment to the fund by a
 10 school shall be one thousand dollars and shall accompany application for licensure.
 11 Beginning one year after licensure by the board and annually thereafter, the annual
 12 payment shall be determined based on the graduated schedule as provided in this
 13 Paragraph. If the gross tuition collected by a school during the first assessment
 14 period after licensure requires an adjustment, the adjustment shall be made in
 15 accordance with the applicable provisions of this Section.

16 PROPRIETARY SCHOOL STUDENT PROTECTION FUND SCHEDULE

	<u>Gross Tuition Collected During</u>		<u>Annual Payment</u>			
	<u>Assessment Period</u>					
19	\$	<u>1</u>	-	<u>24,999</u>	\$	<u>200.00</u>
20	\$	<u>25,000</u>	-	<u>49,999</u>	\$	<u>250.00</u>
21	\$	<u>50,000</u>	-	<u>99,999</u>	\$	<u>300.00</u>
22	\$	<u>100,000</u>	-	<u>199,999</u>	\$	<u>400.00</u>
23	\$	<u>200,000</u>	-	<u>299,999</u>	\$	<u>500.00</u>
24	\$	<u>300,000</u>	-	<u>399,999</u>	\$	<u>600.00</u>
25	\$	<u>400,000</u>	-	<u>499,999</u>	\$	<u>700.00</u>
26	\$	<u>500,000</u>	-	<u>749,999</u>	\$	<u>1,000.00</u>
27	\$	<u>750,000</u>	-	<u>999,999</u>	\$	<u>1,250.00</u>
28	\$	<u>1,000,000</u>	-	<u>1,499,999</u>	\$	<u>1,500.00</u>
29	\$	<u>1,500,000</u>	-	<u>and above</u>	\$	<u>2,000.00</u>

1 (2) All payments to the Proprietary School Student Protection Fund shall be
2 made payable to the "Student Protection Fund". Except in cases of overpayment, all
3 payments to the Proprietary School Student Protection Fund shall be nonrefundable.

4 (3) Nontuition revenues and all income generated from contract training
5 services shall be exempt from the calculation of a school's gross tuition revenues.

6 (4) Payments required pursuant to this Section shall be a condition of doing
7 business in the state and failure to make a payment within thirty days following the
8 date on which it is due shall result in the loss of licensure as granted under the
9 provisions of this Chapter. The commission shall provide written notice of the
10 required payment to each school not less than thirty days prior to the due date of the
11 payment.

12 (5) If an audit of tuition revenues conducted by the board determines that a
13 school has paid into the Proprietary School Student Protection Fund an amount less
14 than was required, the school shall pay the amount required to the commission within
15 thirty days of receipt of written notice from the board of the amount of the
16 underpayment.

17 (6) If an audit of tuition revenues conducted by the board determines that a
18 school has paid into the Proprietary School Student Protection Fund an amount more
19 than was required, subsequent payment or payments by the school shall be
20 appropriately credited by the commissioner of higher education or his designee until
21 the credited payment or payments equal the amount of the overpayment.

22 C. Forms developed and provided annually to calculate payments due the
23 Proprietary School Student Protection Fund shall be completed by the school and
24 submitted annually to the commission. The school director or persons designated to
25 sign on his behalf shall attest that the information provided is correct and complete.

26 D. Claims against the fund shall be considered from currently enrolled
27 students only when there is a lack of availability for that student to transfer for the
28 time remaining in his course of study at no additional cost to a similar program
29 within the student's local area as determined by the commission or other teach-out
30 options.

1 E. A school shall inform its students in writing of their rights under the
2 provisions governing the Proprietary School Student Protection Fund.

3 F. Any student enrolled in a proprietary school licensed under the provisions
4 of this Chapter who is unable to complete a course or unit of instruction at a school
5 because of cessation of operation of the school and who has paid tuition for the
6 course or unit of instruction may make application to the board for a refund of tuition
7 from the Proprietary School Student Protection Fund to the extent that the fund exists
8 or has reached the level necessary to pay outstanding approved claims.

9 G.(1) Application for refund shall be made on forms provided by the board
10 after determination of cessation of operation of the school.

11 (2) In applying for a refund pursuant to the provisions of this Section, a
12 student shall specify all sources and amounts of tuition which were paid on the
13 student's behalf.

14 H.(1) Upon application, the board shall determine whether the applicant is
15 unable to complete a course or unit of instruction because of the cessation of
16 operation of the school to which tuition has been paid. The board may summon by
17 subpoena any person, records, or documents pertinent to the making of a
18 determination regarding cessation of operation.

19 (2) If the board finds that the applicant is entitled to a tuition refund because
20 of the cessation of operation of the school, the board shall determine the amount of
21 an appropriate refund which shall be equal to or a portion of the tuition paid for the
22 uncompleted course or unit of instruction. The board shall direct the commission to
23 pay the refund to the applicant or persons, agencies, or organizations indicated by the
24 applicant who has paid tuition on the student's behalf. If the student is a minor,
25 payment shall be made to the student's parent or legal guardian.

26 (3) Each recipient of a tuition refund made in accordance with the provisions
27 of this Section shall assign all rights to the state of any action against the school or
28 its owner or owners for tuition amounts reimbursed pursuant to this Section. Upon
29 assignment, the board may take appropriate action against the school or its owner or
30 owners in order to reimburse the Proprietary School Student Protection Fund for any

1 expenses or claims that are paid from the fund and to reimburse the state for the
2 reasonable and necessary expenses in undertaking the action.

3 I. A claim shall be made against the fund only if it arises out of the cessation
4 of operation and after claims are made against the surety bond or other school
5 financial resources.

6 J. The board shall adopt necessary rules and regulations based on
7 recommendations from the commission providing for the cessation of payments into
8 the Proprietary School Student Protection Fund by schools licensed under the
9 provisions of this Chapter upon the fund balance reaching a minimum of eight
10 hundred thousand dollars and for the resumption of payments into the fund whenever
11 the fund balance is less than seven hundred fifty thousand dollars.

12 K.(1) Notwithstanding the provisions of Subsection A of this Section, there
13 is hereby established a special account within the Proprietary School Student
14 Protection Fund to be known as the Proprietary School Student Records and
15 Administration Account, hereafter in this Subsection referred to as the
16 "administration account". Any balance in the Proprietary School Student Protection
17 Fund on July 1, 2000, that exceeds eight hundred thousand dollars, as provided in
18 Subsection J of this Section, shall be deposited into the administration account. All
19 interest earned on the fund after July 1, 2000, shall be deposited in the administration
20 account. All deposits made to the Proprietary School Student Protection Fund after
21 July 1, 2000, shall be made in accordance with the provisions of this Section.

22 (2) Amounts from the administration account shall be pledged and dedicated
23 solely and exclusively for costs associated with board functions as they relate to the
24 administration of proprietary schools and for the creation of a digital student records
25 management system.

26 §3140.12. Administration

27 A. All funds collected from proprietary schools licensed pursuant to this
28 Chapter, except payments made to the Proprietary School Student Protection Fund,
29 shall be used exclusively for implementing and otherwise administering the
30 provisions of this Chapter. The board shall annually update the commission

1 regarding all funds collected and all expenditures made pursuant to the provisions
2 of this Chapter.

3 B. The board shall assign employees to implement and administer the
4 provisions of this Chapter. The duties and responsibilities of the employees shall be
5 determined by the commissioner of higher education, subject to the approval of the
6 board, but shall include responsibility for all administrative, clerical, legal, and
7 financial matters associated with the licensing, monitoring, and evaluation of
8 proprietary schools governed by this Chapter and with the operation of the
9 commission.

10 §3140.13. Solicitor permits

11 A.(1) No person shall sell any course of instruction offered by a proprietary
12 school or solicit students in this state unless he first applies for and obtains a permit
13 as a solicitor.

14 (2) If the solicitor represents more than one school, he shall obtain a separate
15 permit for each school he represents.

16 (3) Each permit shall be valid for one year from the date of issue.

17 (4)(a) The fee for each permit and each renewal shall be one hundred dollars.

18 (b) All fees collected for the issuance or renewal of permits required by this
19 Section shall be retained by the board solely for administering the provisions of this
20 Chapter and no part thereof shall revert to the state general fund at the end of any
21 fiscal year.

22 B. The application for a permit shall be made on forms furnished by the
23 board.

24 C.(1) Each application shall be accompanied by a surety bond acceptable to
25 the board in the sum of one thousand dollars. The bond shall be continuous. The
26 bond shall be issued by a solvent surety authorized to do business in this state, shall
27 be filed with the commissioner of higher education, and shall be conditioned to
28 provide indemnification to any student suffering loss as a result of any fraud or
29 misrepresentation used by the solicitor in procuring his enrollment. The bond may

1 be provided by a solicitor for a school or by the school itself as a blanket bond
2 covering each of its agents in the amount of one thousand dollars.

3 (2) The liability of the surety on the bond for each solicitor covered shall not
4 exceed the sum of one thousand dollars as an aggregate for all students for all
5 breaches of the conditions of the bond by the solicitors. The bond shall be subject
6 to a ten-year prescriptive period for actions or breach of contract.

7 (3) The surety of any bond may cancel the same upon giving thirty days
8 written notice to the commission and the board and, upon giving notice, shall be
9 relieved of liability for any breach of condition occurring after the effective date of
10 the cancellation.

11 (4) Each application for renewal of a permit shall be accompanied by a
12 surety bond as provided in this Section.

13 D. The board shall take action on all permits applied for in accordance with
14 the provisions of this Section within sixty days after receipt of the application.

15 E. Upon approval of a permit application, the board shall issue a permit in
16 the form of an identification card to the solicitor which shall contain his name,
17 address, and permit number, the name and address of his employing school, and
18 certification that the person whose name appears on the card is an authorized
19 solicitor of the school. The identification card shall be carried by and displayed by
20 the solicitor at all times that he is soliciting or seeking to enroll students.

21 F.(1) Any permit issued to a solicitor may be revoked by the board if the
22 holder of the permit solicits or enrolls students through fraud, deception, or
23 misrepresentation, or other cause as provided by board rule.

24 (2) The board shall notify the permit holder in writing of its decision to
25 revoke his permit. At any time within thirty days prior to revocation, upon request
26 of the solicitor, the commission shall afford the solicitor an opportunity to be heard
27 in person or by counsel. Strict rules of evidence shall not apply. On or before thirty
28 days prior to the date of the hearing, the commission shall notify the aggrieved
29 solicitor of the date and purpose of the hearing and the grounds for the contemplated
30 revocation of the permit. The action of the commission shall be determined by a

1 vote of a majority of the members of the commission and ratified by a majority vote
2 of the board. Any final decision of the commission may be appealed to the board.

3 §3140.14. Recovery on contracts

4 No recovery shall be had on any contract for or in connection with a course
5 of instruction by any owner selling or administering a course if the solicitor for the
6 owner was not the holder of a valid permit as required by the provisions of this
7 Chapter at the time the contract was negotiated or the course sold.

8 §3140.15. Student records

9 A. Each school shall maintain accurate and complete records on each student
10 enrolled in the school.

11 B. Each school shall keep records of:

12 (1) The student's name and permanent address.

13 (2) The date the student began instruction at the school.

14 (3) The student's enrollment agreement.

15 (4) The student's academic transcript data, including the date of last
16 instruction or of program completion.

17 (5) Financial records showing all tuition amounts paid to the school by or on
18 behalf of a student.

19 (6) Other information required by the board.

20 C. The records shall be kept current and on file at the school and be available
21 for inspection by the commissioner of higher education or his designee upon request.

22 D. If a school ceases operations, the records shall be transferred
23 electronically in a secure format, unless the board approves transfer by hard copy,
24 to the board within ten days of cessation of operation. If records are seized or
25 confiscated by those legally authorized, a copy of all records of students affected by
26 the cessation of operation shall be sent to the board.

27 §3140.16. Advertising

28 No owner of a school or solicitor for a school shall publish or cause to be
29 published any advertising materials until the owner or solicitor obtains a valid
30 license or a permit issued in accordance with the provisions of this Chapter.

1 §3140.17. Occupational degree granting status

2 A. The board shall approve or disapprove occupational degree proposals
3 submitted by licensed proprietary schools under its jurisdiction.

4 B. A proprietary school shall be eligible for degree granting status for
5 occupational degrees if it is:

6 (1) Licensed by the board.

7 (2) Domiciled in the state of Louisiana.

8 (3) Accredited by a regional or national accrediting agency recognized by
9 the United States Department of Education.

10 C.(1) The board shall revoke the occupational degree granting status of a
11 proprietary school which has its accreditation withdrawn.

12 (2) A proprietary school that has its accreditation withdrawn shall
13 immediately notify the board of the withdrawal of accreditation.

14 D. Approved and licensed proprietary schools shall award a nonacademic
15 degree entitled "Associate in Occupational Studies". All advertising, recruiting, and
16 publications shall state clearly that the occupational degree awarded is nonacademic
17 and does not imply, promise, or guarantee transferability.

18 E. Each student admitted to an occupational degree program in an accredited
19 proprietary school shall be required to:

20 (1) Possess a high school diploma or equivalent.

21 (2) Complete a minimum of two years, four semesters, or six quarters of
22 course work for each degree program.

23 F. Each occupational degree program shall meet the following minimum
24 requirements:

25 (1) Seventy-five percent of the course of study in the program shall be in a
26 specific occupational area.

27 (2) Each course of study shall be composed of the minimum hours required
28 by the accrediting agency recognized by the United States Department of Education.

1 Section 2. R.S. 36:651(L) and 801.5(A) are hereby amended and reenacted to read
2 as follows:

3 §651. Transfer of boards, commissions, departments, and agencies to Department
4 of Education; boards, commissions, and agencies within Department of
5 Education

6 * * *

7 L. The Advisory Commission on Proprietary Schools (R.S. ~~17:3141.1~~
8 17:3140.1 et seq.) is placed within the Department of Education and shall exercise
9 and perform its powers, duties, functions, and responsibilities in the manner provided
10 in R.S. 36:801.5.

11 * * *

12 §801.5. Transfer; Advisory Commission on Proprietary Schools; Louisiana Health
13 Works Commission; Nursing Supply and Demand Council; Simulation
14 Medical Training and Education Council for Louisiana

15 A. The agency placed within the Department of Education by the provisions
16 of R.S. 36:651(L) shall exercise all powers, duties, functions, and responsibilities
17 provided or authorized for such agency by the constitution and laws, and particularly
18 the provisions of ~~R.S. 17:3141.1 through 3141.19~~ R.S. 17:3140.1 et seq., and shall
19 exercise all such powers, duties, functions, and responsibilities in the manner and to
20 the extent so provided or authorized. The agency shall be under the jurisdiction of
21 the Board of Regents; and the Board of Regents shall have such powers, duties,
22 functions, and responsibilities relative to the agency as otherwise provided by law.
23 All personnel employed or assigned to administer and implement the powers, duties,
24 functions, and responsibilities of the agency shall be employees of the Board of
25 Regents. Except as otherwise provided by law, the Board of Regents shall perform
26 and administer all functions of the agency which are in the nature of accounting and
27 budget control, procurement and contract management, management and program
28 analysis, data processing, personnel management, and grants management.

29 * * *

1 Section 3. R.S. 17:3141.1 through 3141.19 are hereby repealed in their entirety.

2 Section 4. The Louisiana State Law Institute shall place R.S. 17:3140.1 through

3 3140.17 as enacted by this Act in Chapter 24-A of the Louisiana Revised Statutes of 1950.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____