

2022 Regular Session

HOUSE BILL NO. 789

BY REPRESENTATIVE WILLARD

FINANCIAL INSTITUTIONS: Provides relative to the student loan lenders

1 AN ACT

2 To enact Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 6:1401 through 1404, relative to private educational lenders; to create a  
4 registry; to provide for required contents; to allow for enforcement; to provide  
5 penalties for violation; to provide for rulemaking; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950,  
8 comprised of R.S. 6:1401 through 1404, is hereby enacted to read as follows:

9 CHAPTER 22. PRIVATE STUDENT LOAN REGISTRY

10 §1401. Definitions

11 For purposes of this Chapter the following words have the following  
12 meanings:

13 (1) "Commissioner" means the commissioner of the Office of Financial  
14 Institutions.

15 (2) "Private education lender" means any person engaged in the business of  
16 securing, making, or extending credit to a consumer for postsecondary education  
17 expenses, or any holder of a debt incurred by a consumer to finance postsecondary  
18 education expenses. "Private education lender" shall not include the following  
19 persons, only to the extent that state regulation is preempted by federal law:

20 (a) Any federally chartered bank, savings bank, savings and loan association,  
21 or credit union.

1           (b) Any wholly owned subsidiary of a federally chartered bank or credit  
2           union.

3           (c) Any operating subsidiary where each owner of the operating subsidiary  
4           is wholly owned by the same federally chartered bank or credit union.

5           (3) "Private education loan" means:

6           (a) An extension of credit that meets all of the following:

7           (i) Is not made, insured, or guaranteed under Title IV of the Higher  
8           Education Act of 1965 (20 U.S.C. Section 1070 et seq.)

9           (ii) Is extended to a consumer expressly, in whole or in part, for  
10           postsecondary educational expenses, regardless of whether the extension of credit  
11           is provided by the provider of postsecondary education that the student attends.

12           (iii) Does not include any loan that is secured by immovable property or a  
13           dwelling.

14           (b) A debt or obligation owed or incurred by a consumer, contractual or  
15           otherwise, contingent or absolute, that meets all of the following:

16           (i) Is not a loan made, insured, or guaranteed under Title IV of the Higher  
17           Education Act of 1965 (20 U.S.C. Section 1070 et seq).

18           (ii) Is incurred by the consumer, in whole or in part, expressly to finance  
19           postsecondary education expenses regardless of whether the debt incurred is owed  
20           to the provider of postsecondary education that the student attends.

21           (iii) Shall not include any loan that is secured by immovable property or a  
22           dwelling.

23           (4) "Provider of postsecondary education" means a person engaged in the  
24           business of providing postsecondary education, via correspondence, online, or in this  
25           state, to a person located in this state.

26           §1402. Private education lender registry

27           A. No person shall engage in business as a private education lender in this  
28           state without first satisfying the requirements set forth in Subsection B of this  
29           Section.

30           B. A private education lender operating in this state shall:

1           (1) Register with the commissioner pursuant to any registration procedures  
2           set forth by the commissioner by rule, which may include registration through the  
3           Nationwide Multistate Licensing System and Registry.

4           (2) Provide the commissioner, at the time of registration and not less than  
5           once per year thereafter, with the following documents and information:

6           (a) A list of all schools at which a person has provided a private education  
7           loan to a student residing in this state;

8           (b) The volume of private education loans made annually to students residing  
9           in this state.

10          (c) The volume of private education loans made annually at each school as  
11          identified in Subparagraph (a) of this Paragraph.

12          (d) The range of starting interest rates and percentage of applicants who  
13          receive those rates;

14          (e) The default rate for borrowers obtaining private education loans from the  
15          private education lender, if applicable.

16          (f) A copy of the promissory note, agreement, contract or other instrument  
17          used by a private education lender during the previous year to substantiate that a  
18          private education loan has been extended to the consumer or that a consumer owes  
19          a debt to the private education lender.

20          (3) Not later than one year following enactment of this Chapter, the  
21          commissioner shall create a publicly accessible website that includes the following  
22          information about private education lenders registered in this state:

23          (a) The name, address, telephone number, and website for all registered  
24          private education lenders.

25          (b) A summary of the information required by Paragraph (2) of this  
26          Subsection.

27          (c) Copies of all promissory notes, agreements, contracts, or other  
28          instruments provided to the commissioner as required by Paragraph (2)(f) of this  
29          Subsection.

30          §1403. Violations

1           A. The commissioner may impose a civil penalty not exceeding twenty-five  
2           thousand dollars on any person for a violation of this Chapter. Each violation of this  
3           Chapter, including any order, rule or regulation made or issued pursuant to this  
4           Chapter, shall constitute a separate offense.

5           B. The commissioner may order that any person who has been found to have  
6           knowingly violated any provision of this Chapter, or of the rules and regulations  
7           issued pursuant thereto, and has thereby caused financial harm to consumers, be  
8           barred for a term not exceeding ten years from acting as a private education lender,  
9           or a stockholder, or an officer, director, partner or other owner, or an employee of  
10          a private education lender.

11          C. Any private education loan made to a resident of this state by a person  
12          that was not compliant with this Chapter at the time that the private education loan  
13          was made is void and unenforceable.

14          D. A person who fails to comply with the provisions of this Chapter is liable  
15          to any person or class of persons obligated on such private education loan contract  
16          for any of the following:

17                 (1) Actual damages or five-hundred dollars, whichever is greater.

18                 (2) An order enjoining the methods, acts or practices.

19                 (3) Restitution of property.

20                 (4) Punitive damages.

21                 (5) Attorney fees.

22                 (6) Any other relief that the court determines proper.

23          §1404. Rules

24                 The commissioner shall promulgate rules as is necessary to implement the  
25          provisions of this Chapter.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 789 Original

2022 Regular Session

Willard

**Abstract:** Creates a private educational lender registry.

Proposed law defines "commissioner", "private education lender", and "provider of postsecondary education".

Proposed law requires all private education lenders in the state to register with the commissioner and provide certain information and documentation relative to the private education loans handled by the lender.

Proposed law requires the commissioner of the Office of Financial Institutions to use the information collected to create a public website compiling certain information regarding private lenders in the state and documentation of this information.

Proposed law requires the commissioner to create the website within one year of enactment of proposed law.

Proposed law provides penalties for violations of proposed law and specifies that each violation is a separate offense.

Proposed law requires the commissioner to make rules to carry out proposed law.

(Adds R.S. 6:1401-1404)