

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 education 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 a private education loan, or any holder of a private
17 education loan. "Private education lender" shall not include any person who
18 services a private education loan, to the extent such person does not also secure,
19 make, extend, or own the loan."Private education lender" shall not include the
20 following entities, only to the extent that state regulation is preempted by federal
21 law:

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

3 (b) Any wholly-owned subsidiary of a federally chartered bank or credit
4 union.

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

7 (3) "Private education loan" means an extension of credit or a debt or
8 obligation owed or incurred by a consumer, contractual or otherwise, contingent or
9 absolute, that meets all of the following criteria:

10 (a) Is not made, insured, or guaranteed under Title IV of the Higher
11 Education Act of 1965 (20 U.S.C. 1070 et seq.).

12 (b) Is extended to or owed or incurred by a consumer expressly, in whole or
13 in part, for postsecondary education expenses, regardless of whether the extension
14 of credit or debt or obligation owed or incurred is provided by the provider of
15 postsecondary education that the student attends.

16 (c) Does not include any loan that is secured by immovable property or a
17 dwelling.

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

21 §1402. Private education lender registry

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

25 B. A private education lender operating in this state shall do all of the
26 following:

27 (1) Register with the commissioner pursuant to any registration procedures
28 set forth by the commissioner by rule, which may include the payment of a fee set
29 by the commissioner by rule and registration through the Nationwide Multistate
30 Licensing System and Registry. The commissioner may prescribe an alternative

1 registration process and fee structure for a provider of postsecondary education. The
2 registration requirements of this Paragraph shall not apply to a licensed lender
3 pursuant to R.S. 9:3557 or any bank, savings bank, savings and loan association, or
4 credit union operating pursuant to authority granted by the commissioner.

5 (2) Provide the commissioner with the following documents and
6 information:

7 (a) A list of all schools at which the private education lender has provided
8 a private education loan to a student residing in this state.

9 (b) The total number and dollar amount of private education loans made
10 annually to students residing in this state.

11 (c) The total number and dollar amount of private education loans made
12 annually at each school as identified in Subparagraph (a) of this Paragraph.

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

15 (e) The default rate for borrowers obtaining private education loans from the
16 private education lender, if applicable, including the default rate for private
17 education loans made to students for each school listed pursuant to Subparagraph (a)
18 of this Paragraph.

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

23 (g) The total number and dollar amount of private education loans made with
24 a cosigner annually.

25 (3) Provide to the commissioner the documents and information enumerated
26 in Paragraph (B)(2) of this Section pursuant to any procedures set forth by the
27 commissioner, which may include reporting through the Nationwide Multistate
28 Licensing System and Registry.

1 C. Not later than one year following enactment of this Chapter, the
2 commissioner shall create a publicly-accessible website that includes the following
3 information about private education lenders registered in this state:

4 (1) The name, address, telephone number, and website for all registered
5 private education lenders.

6 (2) A summary of the information required by Paragraph (B)(2) of this
7 Section.

8 (3) Copies of all promissory notes, agreements, contracts, or other
9 instruments provided to the commissioner as required by Subparagraph (B)(2)(f) of
10 this Section.

11 §1403. Violations

12 The commissioner may enforce the provisions of this Chapter using the
13 commissioner's authority pursuant to R.S. 6:121.1, which may include imposing a
14 civil money penalty not to exceed one thousand dollars on any person found to have
15 violated this Chapter. Each violation of this Chapter, including any order, rule, or
16 regulation made or issued pursuant to this Chapter, shall constitute a separate
17 offense.

18 §1404. Rules

19 The commissioner shall promulgate rules as are necessary to implement the
20 provisions of this Chapter.

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 Engrossed

2022 Regular Session

Willard

Abstract: Creates a private educational lender registry.

Proposed law defines "commissioner", "private education lender", "private education loan", 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 allows the commissioner to set a registration fee and to develop an alternative registration process and fee structure for a provider of postsecondary education.

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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Provide additional parameters relative to the definition of "private education lender".
2. Add a definition for "private education loan".
3. Allow the commissioner to set a registration fee by rule.
4. Allow the commissioner to provide an alternative registration process and fee structure for a provider of postsecondary education.
5. Remove the one-year period in which a private education lender can provide certain documents and information.
6. Specify that loans are to be indicated by a total number and dollar amount of the loans.
7. Add a requirement that a private lender include the default rate for private education loans in the information provided to the commissioner.
8. Provide for the authority in present law by which the commissioner can enforce proposed law.
9. Reduce the civil penalty that may be imposed by the commissioner from a maximum of \$25,000 to a maximum of \$1,000.
10. Remove provisions of proposed law that allow the commissioner to prohibit a violating lender from acting as a private education lender for 10 years.
11. Remove provisions of proposed law that impose liability on a private education lender for a violation of proposed law.
12. Make technical changes.