

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Pryor**

A Bill

ACT 1284 OF 1993
HOUSE BILL 2059

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR AMENDMENTS TO TITLE 6, CHAPTER 81
9 OF THE ARKANSAS CODE ANNOTATED TO CLARIFY THE POWERS AND
10 AUTHORITY OF THE ARKANSAS STUDENT LOAN AUTHORITY; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "AN ACT TO CLARIFY THE POWERS AND AUTHORITY OF THE
15 ARKANSAS STUDENT LOAN AUTHORITY."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 SECTION 1. Arkansas Code Title 6-81-101 is amended to read as follows:

20 "6-81-101. Definitions.

21 As used in this subchapter, unless the context otherwise requires:

22 (1) Board of Finance means the State Board of Finance created by §
23 19-3-101;

24 (2) Arkansas Student Loan Authority or the authority means the
25 Arkansas Student Loan Authority established for the purpose described in §
26 6-81-102;

27 (3) Guaranteed educational loan means a loan made *in accordance with*
28 *Title IV, Part B of the Higher Education Act of 1965, as amended, or pursuant*
29 *to an alternative educational loan program undertaken by the authority and*
30 *consistent with the provisions of this subchapter, to a qualified borrower for*
31 *payment of educational expenses incurred by a student while attending a*
32 *participating institution, the payment of principal of and interest on which*
33 *is insured by the federal Secretary of Education under the Higher Education*
34 *Act of 1965, as amended, or by the Student Loan Guarantee Foundation of*
35 *Arkansas, or by such other guarantors as the authority may approve;*

36 (4) Qualified borrower means:

1 A student, or the parent of a student who:

2 (i) Qualifies for a guaranteed educational loan; and

3 (ii) Is a resident of the State of Arkansas or has been
4 accepted for enrollment at or is attending a participating institution within
5 the State of Arkansas or is borrowing from a lender doing business within the
6 State of Arkansas, including the authority;

7 (5) Participating institution means any post-high school educational
8 institution, public or private, whose students are eligible for guaranteed
9 educational loans;

10 (6) Obligation or bond or bonds means any bond, note,
11 certificate, or other evidence of indebtedness, whether or not the interest on
12 such obligation shall be subject to federal income taxation."

13

14 SECTION 2. Arkansas Code 6-81-117 is repealed.

15

16 SECTION 3. Arkansas Code 6-81-122 is amended to read as follows:

17 "6-81-122. Bonds, notes, etc. - Investment of excess funds.

18 Moneys in funds created by resolution or trust indenture of the
19 authority in excess of the amount then necessary for making guaranteed
20 educational loans and purchasing guaranteed educational loan notes under this
21 subchapter or in excess of the amount necessary to meet current debt service
22 may be invested by the authority or on its behalf, in:

23 (1) Direct obligations or obligations whose principal and interest are
24 guaranteed by the United States; and

25 (2) Direct obligations of or participation certificates guaranteed by
26 the Federal Financing Bank, Federal Intermediate Credit Bank, Federal Land
27 Banks, Federal Home Loan Bank, Government National Mortgage Association, or
28 Banks for Cooperatives; and

29 (3) Certificates of deposit of any bank, savings and loan association,
30 or trust company whose deposits are fully secured by a pledge of securities of
31 any kind specified in subdivision (1) or subdivision (2) of this section; and

32 (4) Certificates of deposit of any bank, savings and loan association,
33 or trust company, which deposit is fully insured by the Federal Deposit
34 Insurance Corporation (FDIC); and

35 (5) Repurchase agreements sold by any bank, savings and loan

1 association, or trust company, provided the repurchase agreement is fully
2 secured by a pledge of securities of any kind specified in subdivision (1) or
3 subdivision (2) of this section; and

4 (6) General obligations of the state or its political subdivisions; and

5 (7) Obligations, including investment agreements, of any bank, savings
6 and loan association, trust company, or other financial institution, or a
7 holding company thereof, whose credit is rated in either of the top two (2)
8 rating categories by a nationally recognized credit rating service or
9 corporation; and

10 (8) *Money market funds that invest only in obligations described in*
11 *subdivision (1) or subdivision (2) of this section, or which are rated in the*
12 *highest two categories by one or more nationally recognized rating agencies;*
13 *and*

14 (9) *Any other investment permitted by the indenture under which such*
15 *funds are held; provided that such investment is rated as Investment Grade by*
16 *one or more nationally recognized rating agencies."*

17

18 SECTION 4. Arkansas Code 6-81-123 is repealed.

19

20 SECTION 5. Arkansas Code 6-81-124 is amended to read as follows:

21 "6-81-124. Student loan funds.

22 (a) All proceeds derived from a particular obligation under the
23 provisions of this subchapter shall be deposited in a fund to be known as the
24 Proceeds Fund which shall be maintained in such bank or banks as shall be
25 determined by the Arkansas Student Loan Authority, and funds deposited in the
26 fund shall be expended only on approval of the Arkansas Student Loan
27 Authority.

28 (b) A separate and distinct proceeds fund shall be maintained for each
29 different obligation issued by the authority.

30 (c) Funds credited to a proceeds fund may be used for any or all of the
31 following purposes:

32 (1) The payment of the necessary expenses, including, without
33 limitation, the costs of issuing the authority's obligations, incurred by the
34 authority in carrying out its responsibilities under this subchapter;

35 (2) The establishment of a debt service reserve account to secure

1 the payment of obligations;

2 (3) The making of guaranteed educational loans to qualified
3 *borrowers, so long as the authority does not compete with participating*
4 *private lending institutions in the making of guaranteed educational loans;*

5 (4) The purchase, either directly or acting through a bank with
6 trust powers for its account, of guaranteed educational loan notes executed
7 after March 30, 1977, by qualified borrowers; and

8 (5) The acquisition of an investment contract or contracts or any
9 other investments permitted under an indenture of the authority securing its
10 obligations. However, the income from the contract, contracts, or investments,
11 after payment of the obligations and all expenses associated therewith, shall
12 be used by the authority to assist in carrying out its purposes under this
13 subchapter."

14

15 SECTION 6. Arkansas Code 6-81-126 is amended to read as follows:

16 "6-81-126. Purchase of student loan note.

17 Prior to purchasing a guaranteed educational loan note under the
18 provisions of this subchapter, the authority shall reasonably determine (i)
19 that the note represents a loan actually disbursed to a qualified borrower ,
20 (ii) that due diligence both in making and collecting the loan has been
21 exercised with respect to that loan, (iii) that such loan meets such other
22 reasonable criteria as may be established from time to time by the authority,
23 and (iv) that no other defects exist affecting the ability of the loan to be
24 guaranteed."

25

26 SECTION 7. Arkansas Code 6-81-127 is amended to read as follows:

27 "6-81-127. Reports. (a) *No more than twenty-five percent (25%) of the*
28 *funds available to the Arkansas Student Loan Authority for the purchase of*
29 *guaranteed student loan notes and for making original student loans shall be*
30 *used to purchase guaranteed student loan notes or to make original student*
31 *loans to students attending proprietary institutions, as defined by 20 U.C.S.*
32 *§1088(b).*

33 (b) The Arkansas Student Loan Authority shall annually file a report
34 with the Joint Interim Committee on Education of the Arkansas General Assembly
35 showing the aggregate amount of student loans originated or acquired by the

1 authority during the preceding year to students attending four-year, two-year
2 and vocational schools."

3

4 SECTION 8. Arkansas Code 6-81-129 is amended to read as follows:

5 "6-81-129. Contracts with entities for certain services authorized.

6 (a) The authority may contract with an agency, financial institution, or
7 corporation, whether organized under the laws of the state or otherwise,
8 whereby such agency, financial institution, or corporation shall provide
9 certain billing, accounting, reporting, or administrative services required
10 for guaranteed educational loan programs administered by the authority or in
11 which the authority participates.

12 (b) The authority may form one (1) or more nonprofit special purpose
13 corporations for accomplishing the purposes set forth in this act. Members of
14 the board and officers of the authority may serve as directors of any such
15 nonprofit corporation. *Obligations issued by such nonprofit corporation shall*
16 *be subject to the approvals contained in §6-81-107 and §6-81-108.* The
17 authority may contract with any such nonprofit corporation, as set forth in
18 subsection (a)."

19

20 SECTION 9. All provisions of this act of a general and permanent
21 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
22 Code Revision Commission shall incorporate the same in the Code.

23

24 SECTION 10. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.

29

30 SECTION 11. All laws and parts of laws in conflict with this act are
31 hereby repealed.

32

33 SECTION 12. EMERGENCY. It is hereby found and determined by the
34 General Assembly that there is an urgent need to make clear the power and
35 authority of the Arkansas Student Loan Authority to participate in loan

1 programs supplemental to those programs authorized by the federal Higher
2 Education Act of 1965, as amended, in order to better serve the educational
3 needs of the citizens of the state, and that the amendment of Title 6, Chapter
4 8 of the Arkansas Code will serve to further and accomplish this purpose.
5 Therefore, an emergency is hereby declared to exist and this act being
6 necessary for the immediate preservation of the public peace, health and
7 safety shall be in full force and effect from and after its passage and
8 approval.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

/s/M. Pryor

APPROVED: 4/20/93

As Engrossed: 3/23/93

HB 2059

1

2

3

4

mih368