

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

A Bill

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;*

1 (4) Qualified borrower means:

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

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

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

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

11 (6) Obligation or bond or bonds means any bond, note,
12 certificate, or other evidence of indebtedness, whether or not the interest on
13 such obligation shall be subject to federal income taxation."
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15 SECTION 2. Arkansas Code 6-81-117 is repealed.

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

18 "6-81-122. Bonds, notes, etc. - Investment of excess funds.

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

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

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

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

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

1 (5) Repurchase agreements sold by any bank, savings and loan
2 association, or trust company, provided the repurchase agreement is fully
3 secured by a pledge of securities of any kind specified in subdivision (1) or
4 subdivision (2) of this section; and

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

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

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

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

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

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

22 "6-81-124. Student loan funds.

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

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

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

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

1 (2) The establishment of a debt service reserve account to secure
2 the payment of obligations;

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

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

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

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

17 "6-81-126. Purchase of student loan note.

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

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

28 "6-81-127. Reports. (a) *No more than twenty-five percent (25%) of the*
29 *funds available to the Arkansas Student Loan Authority for the purchase of*
30 *guaranteed student loan notes and for making original student loans shall be*
31 *used to purchase guaranteed student loan notes or to make original student*
32 *loans to students attending proprietary institutions, as defined by 20 U.C.S.*
33 *§1088(b).*

34 (b) The Arkansas Student Loan Authority shall annually file a report
35 with the Joint Interim Committee on Education of the Arkansas General Assembly

1 showing the aggregate amount of student loans originated or acquired by the
2 authority during the preceding year to students attending four-year, two-year
3 and vocational schools."

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

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

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

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

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

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

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

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34 SECTION 12. EMERGENCY. It is hereby found and determined by the
35 General Assembly that there is an urgent need to make clear the power and

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

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/s/M. Pryor

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