

House Bill 448 (AS PASSED HOUSE AND SENATE)

By: Representatives Williams of the 119<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Dempsey of the 13<sup>th</sup>, and Gardner of the 57<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to  
2 postsecondary education, so as to require certain education and postsecondary educational  
3 institutions to qualify for exemptions with the Nonpublic Postsecondary Education  
4 Commission and the maintenance of exemptions provided for under Part 1A of Article 7 of  
5 such chapter; to provide for an exception; to provide for the promulgation of rules,  
6 regulations, and policies for the effectuation of such exemptions; to revise the membership  
7 of the Nonpublic Postsecondary Education Commission; to provide for completion of current  
8 terms of appointment to the commission; to revise the membership of the Board of Trustees  
9 of the Tuition Guaranty Trust Fund; to correct a cross-reference; to provide for related  
10 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to postsecondary  
14 education, is amended in Code Section 20-3-250.3, relating to educational institutions  
15 exempted from application of part, by revising subsection (a) and by adding a new subsection  
16 to read as follows:

17 "(a) The following education and postsecondary educational institutions ~~are~~ shall be  
18 exempted from this part except as expressly provided to the contrary and upon qualification  
19 with the commission pursuant to subsection (e) of this Code section:

20 (1) Institutions exclusively offering instruction at any or all levels from preschool  
21 through the twelfth grade regardless of the age of the student;

22 (2) Education sponsored by a bona fide trade, business, professional, or fraternal  
23 organization, so recognized by the commission, solely for that organization's membership  
24 or offered on a no-fee basis, not granting degrees;

25 (3) Education solely avocational or recreational in nature, as determined by the  
26 commission, and institutions, not granting degrees, offering such education exclusively;

- 27 (4) Postsecondary educational institutions established, operated, governed, or licensed  
 28 by this state, its agencies, or its political subdivisions, as determined by the commission;
- 29 (5) Any flight school which holds an applicable federal air agency certificate issued by  
 30 the administrator of the Federal Aviation Administration;
- 31 (6) Nonpublic, nonprofit, postsecondary educational institutions which demonstrate  
 32 annually to the satisfaction of the commission that their purposes are solely to provide  
 33 programs of study in theology, divinity, religious education, and ministerial training, and  
 34 that they do not grant postsecondary degrees of a nonreligious nature and that such  
 35 institutions:
- 36 (A) Accept no federal or state funds; and
- 37 (B) Accept no student who has a federal or state education loan to attend such  
 38 institutions;
- 39 (7) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any  
 40 nonpublic law schools not school accredited by the American Bar Association ~~which are~~  
 41 ~~subject to the regulations and standards established by the Georgia Supreme Court for~~  
 42 ~~such schools~~ whose principal office and campus are located in this state and which is not  
 43 qualified for exemption under any other paragraph of this subsection; provided, however,  
 44 that any such nonpublic law school shall be subject to the provisions of Code Section  
 45 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section  
 46 668.43(b) and shall designate the commission as the recipient of complaints from  
 47 students of such nonpublic law school as a prerequisite for such nonpublic law school's  
 48 acceptance of federal student financial aid funds; and provided, further, that the  
 49 designation provided under this paragraph shall be provided solely to the extent necessary  
 50 for institutional compliance of such nonpublic law school with the laws and regulations  
 51 governing federal student financial aid and shall not affect, rescind, or supersede any  
 52 preexisting authorizations, charters, or recognition;
- 53 (8) Nonpublic postsecondary educational institutions conducting postsecondary activity  
 54 on the premises of military installations located in this state which are solely for military  
 55 personnel stationed on active duty at such military installations, their dependents, or  
 56 Department of Defense employees and other civilian employees of that installation;
- 57 (9) A school where the sole purpose of the instructional program is review or preparation  
 58 for a specific occupational examination recognized by a government agency or bona fide  
 59 trade, business, or fraternal organization and where the student's occupational training  
 60 received from another school already makes the student eligible to sit for the  
 61 examination;
- 62 (10) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any  
 63 nonpublic, nonprofit college or university granting baccalaureate degrees whose principal

64 office and campus are located in this state and its related graduate and professional  
65 programs, which have been in existence ten or more years as a nonpublic, nonprofit  
66 college or university and is accredited by a national or regional accrediting agency  
67 recognized by the United States Department of Education; provided, however, that such  
68 nonpublic, nonprofit college or university shall be subject to the provisions of Code  
69 Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section  
70 668.43(b) and shall designate the commission as the recipient of complaints from  
71 students of such nonpublic, nonprofit college or university as a prerequisite for such  
72 nonpublic, nonprofit college's or university's acceptance of federal student financial aid  
73 funds; and provided, further, that the designation provided for under this paragraph shall  
74 be provided solely to the extent necessary for institutional compliance of such nonpublic,  
75 nonprofit college or university with the laws and regulations governing federal student  
76 financial aid and shall not affect, rescind, or supersede any preexisting authorizations,  
77 charters, or recognition;

78 (11) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any  
79 liberal arts college or university whose principal office and campus are located in this  
80 state and its related graduate and professional programs, if any, which was chartered prior  
81 to 1955 as a nonpublic, nonprofit, degree-granting institution, provided that it is  
82 accredited by a regional or national accrediting agency recognized by the United States  
83 Department of Education; and provided, further, that such liberal arts college or  
84 university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes  
85 of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the  
86 commission as the recipient of complaints from students of such liberal arts college or  
87 university as a prerequisite for such liberal arts college's or university's acceptance of  
88 federal financial aid funds; and provided, further, that the designation provided for under  
89 this paragraph shall be provided solely to the extent necessary for institutional  
90 compliance of such liberal arts college or university with the laws and regulations  
91 governing federal student financial aid and shall not affect, rescind, or supersede any  
92 preexisting authorizations, charters, or recognition;

93 (12) Any institution offering only education or training in income tax theory or income  
94 tax return preparation when the total contract price for such education or training does not  
95 exceed \$1,000.00, provided that the total charges incurred by any student for all  
96 instruction, other than instruction which is solely avocational or recreational in nature as  
97 provided in paragraph (3) of this subsection, do not exceed \$1,000.00 in any one calendar  
98 year;

99 (13) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any  
100 nonpublic medical school accredited by the Liaison Committee on Medical Education

101 and a national or regional accrediting agency recognized by the United States Department  
 102 of Education; and  
 103 (14) Any college or university that confers both associate and baccalaureate or higher  
 104 degrees, that is accredited by the Southern Association of Colleges and Schools, College  
 105 Division, that is operated in a proprietary status or that if previously exempt under this  
 106 subsection as a proprietary institution has subsequently changed to operate in a nonprofit  
 107 status, that provides a \$200,000.00 surety bond, and that contributes to the Tuition  
 108 Guaranty Trust Fund pursuant to Code Section 20-3-250.27; provided, however, that such  
 109 college or university shall be subject to the provisions of Code Section 20-3-250.14 for  
 110 the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall  
 111 designate the commission as the recipient of complaints from students of such college or  
 112 university as a prerequisite for such college's or university's acceptance of federal student  
 113 financial aid funds; and provided, further, that the designation provided for under this  
 114 paragraph shall be provided solely to the extent necessary for institutional compliance of  
 115 such college or university with the laws and regulations governing federal student  
 116 financial aid and shall not affect, rescind, or supersede any preexisting authorizations,  
 117 charters, or recognition."

118 "(e) Except for postsecondary educational institutions exempted from this part pursuant  
 119 to paragraph (4) of subsection (a) of this Code section, the commission shall establish and  
 120 promulgate rules, regulations, and policies for education and postsecondary educational  
 121 institutions to establish their qualifications for an exemption, or maintenance of such  
 122 exemption, as provided for under subsection (a) of this Code section."

## 123 SECTION 2.

124 Said chapter is further amended in Code Section 20-3-250.4, relating to the Nonpublic  
 125 Postsecondary Education Commission, by revising subsections (a) and (b) and by adding a  
 126 new subsection to read as follows:

127 "(a) There is established the Nonpublic Postsecondary Education Commission consisting  
 128 of 15 members whose members shall be as provided for pursuant to subsections (b) and  
 129 (b.1) of this Code section and who shall be appointed by the Governor and confirmed by  
 130 the Senate. One member shall be appointed from each congressional district and the  
 131 remaining member shall be appointed as an at-large member. Members serving a term of  
 132 appointment on January 1, 2015, shall complete their terms of appointment; thereafter,  
 133 members Members of the commission shall be appointed for terms of three years each.  
 134 Each member shall serve for the term of office to which the person is appointed and until  
 135 a successor is appointed, confirmed, and qualified, except as provided otherwise in this

136 Code section. Members may be appointed to succeed themselves but shall not serve for  
137 more than two full consecutive terms.

138 (b) At least one member ~~Two members~~ of the commission shall be appointed to represent  
139 degree-granting nonpublic postsecondary educational institutions, ~~and two members at~~  
140 least one member shall be appointed to represent nonpublic postsecondary educational  
141 institutions which grant certificates only, ~~and at least one member shall be appointed to~~  
142 represent exempt education and postsecondary educational institutions as provided in  
143 subsection (a) of Code Section 20-3-250.3. The remaining members shall not be employed  
144 by or otherwise represent or have an interest in any nonpublic postsecondary educational  
145 institution.

146 (b.1)(1) Members serving a term of appointment which ended prior to or ends on July 1,  
147 2018, shall complete their term of service on July 1, 2018.

148 (2) After the occurrence of paragraph (1) of this subsection, the commission shall consist  
149 of 11 members who shall be appointed pursuant to the requirements of this Code section."

### 150 SECTION 3.

151 Said chapter is further amended in Code Section 20-3-250.27, relating to the Tuition  
152 Guaranty Trust Fund, by revising paragraph (2) of subsection (b) and paragraph (1) of  
153 subsection (c) as follows:

154 "(2) The fund shall be administered by the Board of Trustees of the Tuition Guaranty  
155 Trust Fund. The board of trustees shall consist of five members of the commission  
156 designated by majority vote of the commission, ~~but one of such members shall be a~~  
157 ~~representative of a nonpublic nondegree-granting postsecondary educational institution,~~  
158 ~~and one of such members shall be a representative of a nonpublic degree-granting where~~  
159 at least two members, by June 30, 2020, shall represent postsecondary educational  
160 institution institutions. The five members of the commission who are so designated shall  
161 serve for such terms of office as members of the board as the commission shall establish  
162 by rule or regulation. The commission shall appoint one of the members so designated  
163 as chairman of the board. The executive director shall also serve as executive director  
164 and secretary of the board. Three members of the board must vote in agreement in order  
165 for the board to take official action. The commission may by rule or regulation provide  
166 for another member of the commission to serve in the place of a member of the board  
167 who is absent from a meeting of the board.

168 (c)(1) All postsecondary educational institutions operating in this state, except those  
169 which are exempt from the provisions of this Code section pursuant to Code Section  
170 20-3-250.3, shall participate in the tuition guaranty fund. Those postsecondary  
171 educational institutions specified in paragraphs (10) and ~~(15)~~ (14) of subsection (a) of

172 Code Section 20-3-250.3 and in subsection (c) of Code Section 20-3-250.3 shall  
173 participate in the tuition guaranty fund."

174 **SECTION 4.**

175 This Act shall become effective upon its approval by the Governor or upon its becoming law  
176 without such approval.

177 **SECTION 5.**

178 All laws and parts of laws in conflict with this Act are repealed.