

House Bill 840

By: Representatives Wiedower of the 119th, Gaines of the 117th, Kelley of the 16th, Sainz of the 180th, and Jones of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1A of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia
2 Annotated, relating to nonpublic postsecondary educational institutions, so as to provide for
3 biennial review of institutions rather than programs; to provide for awards of costs and
4 reasonable attorney's fees in favor of the commission; to provide for alternative review of
5 renewal applications by institutions in good standing with recognized accrediting agencies;
6 to provide for filing a surety bond in the event of a change of ownership of an institution; to
7 provide for the remittal of surety bonds; to provide for assessment of investigation costs
8 incurred by the commission; to provide for related matters; to provide for conforming
9 changes; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Part 1A of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,
13 relating to nonpublic postsecondary educational institutions, is amended in Code Section
14 20-3-250.5, relating to administration and general powers and duties, by revising subsection
15 (e) as follows:

16 "(e) The commission shall be authorized to provide for biennial review of a previously
17 authorized ~~program of instruction at any~~ institution which has received accreditation by a
18 ~~national or regional~~ an accrediting agency recognized by the United States Department of
19 Education. The commission shall promulgate guidelines which shall be followed by the
20 executive director in recommending such biennial ~~program~~ institutional reviews to the
21 commission."

22 style="text-align:center">**SECTION 2.**

23 Said part is further amended in Code Section 20-3-250.6, relating to minimum standards for
24 educational institutions, by revising subsection (c) as follows:

25 "(c) Institutions otherwise exempt from certain provisions of this part under paragraphs (7),
 26 (10), (11), ~~(12)~~, and ~~(14)~~ (13) of subsection (a) of Code Section 20-3-250.3 shall be
 27 required to meet the standards of financial soundness and being capable of fulfilling
 28 commitments to students as provided in subparagraph (a)(1)(H) of this Code section, and,
 29 because of such requirement, each such institution shall provide the commission with
 30 audited financial statements as performed by an independent certified public accountant
 31 and at such times as the commission shall require. The commission may impose a fee to
 32 be paid by such institutions to offset the cost of receiving and reviewing such audited
 33 financial statements. Institutions otherwise exempt from certain provisions of this part
 34 under subsection (c) of Code Section 20-3-250.3 shall be required to submit annual
 35 financial reports to the commission when applying for annual renewal of exemption or
 36 authorization using the reporting format provided by the commission. In addition thereto,
 37 institutions otherwise exempt from certain provisions of this part under paragraph (10) of
 38 subsection (a) of Code Section 20-3-250.3 shall be subject to the requirements of Code
 39 Sections 20-3-250.8, 20-3-250.10, and 20-3-250.27. The reports to the Governor and to
 40 the General Assembly required by subsection (h) of Code Section 20-3-250.27 shall
 41 include a summary of the commission's findings from its review of audited financial
 42 statements required by this subsection."

43

SECTION 3.

44 Said part is further amended in Code Section 20-3-250.8, relating to application to operate
 45 or conduct postsecondary activities, by revising subsection (g) as follows:

46 "(g) At least 60 days prior to the expiration of an authorization to operate, the institution
 47 shall complete and file with the executive director an application form for renewal of its
 48 authorization to operate. Such renewal application shall be reviewed and acted upon as
 49 provided in subsections (c) through (f) of this Code section; provided, however, that
 50 alternative methods deemed adequate and appropriate by the executive director may be
 51 used to review renewal applications by nonpublic postsecondary educational institutions
 52 that are accredited by and in good standing with an accrediting agency recognized by the
 53 United States Department of Education.

54

SECTION 4.

55 Said part is further amended in Code Section 20-3-250.10, relating to surety bonds, filing,
 56 amount, release of surety, and suspension upon release of surety, by revising subsections (a)
 57 and (b) as follows:

58 "(a) At the time an initial application ~~or application for a branch facility~~ is made for
 59 authorization to operate or in the event of a change of ownership as provided for in

60 subsection (f) of Code Section 20-3-250.8, the executive director shall require the
 61 nonpublic postsecondary educational institution making such application to file with the
 62 executive director a good and sufficient surety bond in such sum as determined by
 63 subsection (b) of this Code section. Such bond shall be executed by the applicant as
 64 principal and by a surety company qualified and authorized to do business in this state.
 65 The bond shall be conditioned to provide indemnification to the Tuition Guaranty Trust
 66 Fund established in Code Section 20-3-250.27 and to any student or enrollee or that
 67 person's parent or guardian or class thereof determined to have suffered loss or damage as
 68 a result of any act or practice which is a violation of this part or of rules and regulations
 69 promulgated pursuant thereto by such nonpublic postsecondary educational institution and
 70 that the bonding company shall pay any final, nonappealable judgment rendered by the
 71 commission or any court of this state having jurisdiction, upon receipt of written
 72 notification thereof. If a bond is in force at the time of an institutional closure, the surety
 73 shall be required to remit the full face value of the bond. Regardless of the number of years
 74 that such bond is in force, the aggregate liability of the surety thereon shall in no event
 75 exceed the penal sum of the bond. The bond may be continuous.

76 (b) The minimum amount of the bond required by subsection (a) of this Code section shall
 77 be based on the gross tuition of the nonpublic postsecondary educational institution during
 78 the previous year or on the estimated gross tuition for the current year, whichever is larger,
 79 and shall be as follows:

<u>Gross Tuition</u>	<u>Minimum Bond</u>
81 \$ 0.00 — \$ 50,000.00	\$ 20,000.00
82 50,001.00 — 100,000.00	30,000.00
83 100,001.00 — 200,000.00	50,000.00
84 200,001.00 — 300,000.00	75,000.00
85 300,001.00 — 400,000.00	100,000.00
86 400,001.00 — 500,000.00	150,000.00
87 500,001.00 and over <u>— 1,000,000.00</u>	200,000.00
88 <u>1,000,001.00 and over</u>	<u>450,000.00</u>

89 For situations where a nonpublic postsecondary educational institution is unable to secure
 90 a bond amount provided for by this subsection, a bank standby letter of credit secured from
 91 a federally insured financial institution shall be accepted pursuant to rules and regulations
 92 of the commission. Institutions with \$1,000,001.01 or more in the previous year's gross
 93 tuition or estimated gross tuition, whichever is larger, that are authorized and bonded prior
 94 to July 1, 2020, shall not be subject to the \$450,000.00 bonding requirement unless a
 95 change of ownership occurs after July 1, 2020."

96

SECTION 5.

97 Said part is further amended in Code Section 20-3-250.18, relating to initiation of court
98 proceedings by executive director, by adding two new subsections to read as follows:

99 "(c) In any complaint or action brought against a responding party by or on behalf of the
100 commission in any court of competent jurisdiction to enforce the provisions of this part,
101 where the court determines the responding party acted without substantial justification in
102 not complying with the provisions of this part, the court shall, unless it finds that special
103 circumstances exist, assess in favor of the commission reasonable attorney's fees and other
104 litigation costs reasonably incurred.

105 (d) The executive director shall have the ability to assess reasonable investigation costs
106 incurred by the commission against any person, agent, group, or entity found to have
107 violated any provision of this part."

108

SECTION 6.

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