

The House Committee on Higher Education offers the following substitute to HB 152:

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 revise
3 provisions regarding the exemption applicable to certain institutions operating on military
4 installations or bases; to provide for alternative review of renewal applications and
5 alternative inspection of facilities; to provide for filing a surety bond in the event of a change
6 of ownership of an institution; to provide for the remittal of surety bonds; to provide for
7 conforming changes; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Part 1A of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,
12 relating to nonpublic postsecondary educational institutions, is amended in Code Section
13 20-3-250.3, relating to educational institutions exempted from application of part, by revising
14 paragraph (8) of subsection (a) as follows:

15 "(8) Nonpublic postsecondary educational institutions conducting postsecondary activity
16 on campuses located on the premises of military installations or bases located in this

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17 state, unless the Department of Defense expressly requires the commission to inspect and
18 authorize such institution ~~which are solely for military personnel stationed on active duty~~
19 ~~at such military installations, their dependents, or Department of Defense employees and~~
20 ~~other civilian employees of that installation;~~"

21 **SECTION 2.**

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

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

42 **SECTION 3.**

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

45 "(c) Following review of such application and any further information submitted by the
46 applicant or required by the executive director, an ~~on-site~~ inspection of the physical facility
47 at which the institution will be operating, if located in this state, and such investigation of
48 the applicant as the executive director may deem necessary or appropriate, the executive
49 director shall either grant or deny authorization to operate to the applicant. The executive
50 director shall have the sole discretion to determine whether the inspection of the physical
51 facility shall be conducted on the site of the institution or through alternative methods,
52 including, but not limited to, remote inspection conducted through use of electronic and
53 audio-visual equipment. A grant of authorization to operate may be on such terms and
54 conditions as the executive director may specify."

55 **SECTION 4.**

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

59 "(a) At the time an initial application or application for a branch facility is made for
60 authorization to operate or in the event of a change of ownership as provided for in
61 subsection (f) of Code Section 20-3-250.8, the executive director shall require the
62 nonpublic postsecondary educational institution making such application to file with the
63 executive director a good and sufficient surety bond in such sum as determined by
64 subsection (b) of this Code section. Such bond shall be executed by the applicant as
65 principal and by a surety company qualified and authorized to do business in this state.
66 The bond shall be conditioned to provide indemnification to the Tuition Guaranty Trust
67 Fund established in Code Section 20-3-250.27 and to any student or enrollee or that

68 person's parent or guardian or class thereof determined to have suffered loss or damage as
 69 a result of any act or practice which is a violation of this part or of rules and regulations
 70 promulgated pursuant thereto by such nonpublic postsecondary educational institution and
 71 that the bonding company shall pay any final, nonappealable judgment rendered by the
 72 commission or any court of this state having jurisdiction, upon receipt of written
 73 notification thereof. If a bond is in force at the time of an institutional closure, the surety
 74 shall be required to remit the full face value of the bond. Regardless of the number of years
 75 that such bond is in force, the aggregate liability of the surety thereon shall in no event
 76 exceed the penal sum of the bond. The bond may be continuous.

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

<u>Gross Tuition</u>	<u>Minimum Bond</u>
82 \$ 0.00 — \$ 50,000.00	\$ 20,000.00
83 50,001.00 — 100,000.00	30,000.00
84 100,001.00 — 200,000.00	50,000.00
85 200,001.00 — 300,000.00	75,000.00
86 300,001.00 — 400,000.00	100,000.00
87 400,001.00 — 500,000.00	150,000.00
88 500,001.00 and over — <u>1,000,000.00</u>	200,000.00
89 <u>1,000,001.00 — 2,000,000.00</u>	<u>300,000.00</u>
90 <u>2,000,001.00 and over</u>	<u>450,000.00</u>

91 For situations where a nonpublic postsecondary educational institution is unable to secure
 92 a bond amount provided for by this subsection, a bank standby letter of credit secured from
 93 a federally insured financial institution shall be accepted pursuant to rules and regulations

94 of the commission. Institutions with \$1,000,001.00 or more in the previous year's gross
95 tuition or estimated gross tuition, whichever is larger, that are authorized and bonded prior
96 to July 1, 2021, shall not be subject to the \$300,000.00 or the \$450,000.00 bonding
97 requirement unless a change of ownership occurs after July 1, 2021."

98

SECTION 5.

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