

By: Lozano

H.B. No. 2705

A BILL TO BE ENTITLED

AN ACT

relating to alternative education loans and to the use of higher education private activity bonds by qualified alternative education loan lenders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 53B.02(2), Education Code, is amended to read as follows:

(2) "Alternative education loan" means a loan other than a guaranteed student loan that is made:

(A) to a student, a former student, or any other person for the benefit of the student or former student; and

(B) ~~[to or for the benefit of a student]~~ for the purpose of financing or refinancing all or part of the student's or former student's cost of attendance at an accredited institution.

SECTION 2. Section 53B.12, Education Code, is amended to read as follows:

Sec. 53B.12. TERRITORY. (a) The authority comprises only the territory included within the boundaries of the city or cities creating it.

(b) Subsection (a) does not restrict the ability of a qualified nonprofit corporation to:

(1) make, purchase, or refinance guaranteed student loans or alternative education loans inside and outside the territory described by that subsection, provided that those loans

1 satisfy the requirements of Section 53B.47(b) and other applicable
2 law; or

3 (2) otherwise operate within the corporation's area of
4 service in accordance with this chapter.

5 SECTION 3. Section 53B.47, Education Code, is amended by
6 amending Subsections (a), (b), (c), (f), and (h) and adding
7 Subsection (h-1) to read as follows:

8 (a) An authority may, upon approval of the city or cities
9 which created the same, issue revenue bonds or otherwise borrow
10 money to obtain funds to ~~[purchase or to]~~ make, purchase, or
11 refinance guaranteed student loans or alternative education
12 loans. Revenue bonds issued for such purpose shall be issued in
13 accordance with and with the effect provided in this chapter. Such
14 bonds shall be payable from and secured by a pledge of revenues
15 derived from or by reason of the ownership of guaranteed student
16 loans or alternative education loans and investment income after
17 deduction of such expenses of operating the loan program as may be
18 specified by the bond resolution or trust indenture.

19 (b) An authority may cause money to be expended to make,
20 ~~[or]~~ purchase, or refinance ~~[for its account]~~ guaranteed student
21 loans that are guaranteed by the Texas Guaranteed Student Loan
22 Corporation, other guaranteed student loans, or alternative
23 education loans that are executed by or on behalf of students or
24 former students who:

25 (1) are residents of this state; or

26 (2) have been admitted to attend an accredited
27 institution within this state.

(c) The authority shall contract with a nonprofit corporation, organized under the laws of this state, whereby such corporation will provide the reports and other information required for continued participation in a [the federally guaranteed] loan program described by this subchapter ~~[provided by the Higher Education Act of 1965, as amended, or in an alternative education loan program]~~.

(f) A nonprofit corporation, whether acting at the request of a city or cities under Subsection (e) or acting as a servicer or administrator for another corporation that ~~[purchases or]~~ makes, purchases, or refinances guaranteed student loans or alternative education loans, or that on its own behalf issues securities or otherwise obtains funds to ~~[purchase or]~~ make, purchase, or refinance guaranteed student loans or alternative education loans, may:

(1) exercise the powers granted by Chapters 20 and 22, Business Organizations Code, and any provision of Title 1, Business Organizations Code, applicable to a nonprofit corporation;

(2) service loans ~~[purchased or]~~ made, purchased, or refinanced from its funds or contract with another person to service the loans;

(3) grant a security interest in a trust estate securing its securities; and

(4) make investments as authorized by Subsection (e).

(h) An alternative education loan may be made, purchased, or refinanced under this section only by or on behalf of a qualified alternative education loan lender. An alternative education loan

may not be in an amount that exceeds the amount permitted under
Section 144(b)(1)(B), Internal Revenue Code of 1986 ~~[in excess of~~
~~the difference between the cost of attendance and the amount of~~
~~other student assistance to the student, other than loans under~~
~~Section 428B(a)(1), Higher Education Act of 1965 (20 U.S.C. Section~~
~~1078-2) (relating to parent loans), for which the student borrower~~
~~may be eligible]~~. An alternative education loan covered by this
subsection is subject to Chapter [342](#), Finance Code, as applicable,
except that:

(1) the maximum interest rate on the loan may not
exceed the rate permitted under Subchapter A, Chapter [303](#), Finance
Code; and

(2) application and origination fees may be agreed to
by the parties and assessed at the inception of the loan, provided
that if any such fees constitute additional interest under
applicable law, the effective rate of interest agreed to over the
stated term of the loan may not exceed the rate allowed by
Subchapter A, Chapter [303](#), Finance Code, and accrued unpaid
interest may be added to unpaid principal at the beginning of the
agreed repayment period at the borrower's option and in accordance
with the terms of the agreement for purposes of determining the
total principal amount due at the inception of the repayment
period.

(h-1) A program of general application under this chapter
for the making, purchasing, or refinancing of alternative education
loans by a qualified alternative education loan lender in
accordance with Section 144(b)(1)(B), Internal Revenue Code of

1 1986, is a program approved by the state for purposes of Section
2 144(b)(1)(B).

3 SECTION 4. Section 1372.002(a), Government Code, is amended
4 to read as follows:

5 (a) For purposes of this chapter, a project is:

6 (1) an eligible facility or facilities that are
7 proposed to be financed, in whole or in part, by an issue of
8 qualified residential rental project bonds;

9 (2) in connection with an issue of qualified mortgage
10 bonds ~~[or qualified student loan bonds]~~, the providing of financial
11 assistance to qualified mortgagors ~~[or students]~~ located in all or
12 any part of the jurisdiction of the issuer; ~~[or]~~

13 (3) in connection with an issue of qualified student
14 loan bonds, the providing of guaranteed student loans or
15 alternative education loans that satisfy the requirements of
16 Section 53B.47(b), Education Code; or

17 (4) an eligible facility or facilities that are
18 proposed to be financed, in whole or in part, by an issue of bonds
19 other than bonds described by Subdivision (1) or (2).

20 SECTION 5. Section 1372.022(a), Government Code, is amended
21 to read as follows:

22 (a) If the state ceiling is computed on the basis of \$75 per
23 capita or a greater amount, before August 15 of each year:

24 (1) 28.0 percent of the state ceiling is available
25 exclusively for reservations by issuers of qualified mortgage
26 bonds;

27 (2) 8 percent of the state ceiling is available

exclusively for reservations by issuers of state-voted issues;

(3) 2.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 22.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds;

(5) 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53B.47, Education Code~~[, that are nonprofit corporations able to issue a qualified scholarship funding bond as defined by Section 150(d)(2), Internal Revenue Code (26 U.S.C. Section 150(d)(2))]~~; and

(6) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

SECTION 6. Section 1372.0281, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The board shall allow an issuer participating in a student loan program established under Section 53B.47, Education Code, to use pro forma financial statements to satisfy all information requirements of this section that relate to financial matters.

SECTION 7. Section 1372.033, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A qualified nonprofit corporation that receives a student loan bond allocation may use the allocation to make,

1 purchase, or refinance alternative education loans as defined by
2 Section 53B.02(2), Education Code.

3 SECTION 8. The change in law made by this Act to Chapter
4 1372, Government Code, applies to the allocation of the available
5 state ceiling under that chapter beginning with the 2017 program
6 year.

7 SECTION 9. This Act takes effect September 1, 2017.