Senate Engrossed

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1611

AN ACT

AMENDING SECTIONS 35-705, 35-706 AND 35-724, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 22; RELATING TO THE POSTSECONDARY INSTITUTION LOAN COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 35-705, Arizona Revised Statutes, is amended to read:

35-705. Board of directors

The authority shall have a board of directors in which all powers of the authority shall be vested and which shall consist of any number of directors, not less than three nor more than nine, all of whom shall be duly qualified electors of the municipality or county with respect to which the authority was formed. In the case of a corporation formed with the permission of the Arizona board of regents the directors must be qualified electors of this state. The directors shall serve as such without compensation, except that they shall be reimbursed for their actual expenses incurred in the performance of their duties in the same manner as is provided for other state officers. No director shall be an officer or employee of the authorizing municipality or county. All directors shall declare any conflict of interest as provided in title 38, chapter 3, article 8. THE DIRECTORS, AND PERSONS HAVING BUSINESS WITH THE DIRECTORS, ARE SUBJECT TO THE REQUIREMENTS AND LIMITATIONS RELATING TO GIFTS PRESCRIBED BY TITLE 41, CHAPTER 7, ARTICLE 8.1. The directors shall be elected by the governing body of the authorizing municipality or county, and they shall be so elected that they shall hold office for overlapping terms. At the time of the election of the first board of directors the governing body of the municipality or the county shall divide the directors into three groups containing as nearly equal whole numbers as possible. The first term of the directors included in the first group shall be two years, the first term of the directors included in the second group shall be four years, the first term of the directors included in the third group shall be six years, and thereafter the terms of all directors shall be six years. The governing body may remove a director at any time, with or without cause.

Sec. 2. Section 35-706, Arizona Revised Statutes, is amended to read:

35-706. Corporate powers

A. In addition to the powers granted to an industrial development authority by law, the authority ~~shall have~~ HAS the following powers, together with all powers incidental or necessary for the performance of ~~the following~~ THOSE POWERS:

1. To acquire, whether by purchase, exchange, gift, lease or otherwise establish, construct, improve, maintain, equip and furnish one or more projects.

2. To lease to others any or all of its projects, to charge and collect rent and to terminate any lease upon the failure of the lessee to comply with any of the obligations of the lease.

3. To sell, exchange, donate and convey to others any or all of its projects or properties upon terms and conditions as its board of directors may deem advisable, including the power to receive for any sale the note or

notes of the purchaser of the project or property, whenever its board of directors finds the action to further advance the interest of the corporation.

4. To issue its bonds for the purpose of carrying out any of its powers.

5. To mortgage and pledge any or all of its projects and properties, whether owned or acquired, and to pledge the revenues, proceeds and receipts or any portion of the revenues, proceeds and receipts from a project as security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith.

6. To contract with and employ others to provide and to pay compensation for professional services and other services as the board of directors deems necessary for the financing of projects and for the business of the corporation.

7. To refund outstanding obligations incurred by an enterprise to finance the cost of a project when the board of directors finds that the refinancing is in the public interest.

8. To invest and reinvest funds under the control of the corporation and bond proceeds pending application thereof to the purposes for which the bonds were issued, subject only to the provisions of any bond resolution, lease or other agreement entered into by the board of directors.

9. To make secured or unsecured loans for the purpose of financing or refinancing the acquisition, construction, improvement, equipping or operating of a project and to charge and collect interest on the loans and pledge the proceeds of loan agreements as security for the payment of the principal and interest of any bonds, or designated issues of bonds, issued by the corporation, and any agreements made in connection with the loan, whenever the board of directors finds the loans to further advance the interest of the corporation or the public.

10. To acquire and hold obligations of any kind to carry out any of its purposes.

11. Subject to this section, to make loans to any bank, savings and loan institution, credit union or other mortgage lender, whether organized or existing under the laws of this state, another state or the United States, which is qualified to do business in this state, for the purpose of enabling the institutions to make loans to finance the acquisition, construction, improvement or equipping of projects which are owner-occupied single family dwelling units to be occupied by persons of low and moderate income, as determined by the corporation. The loans shall be fully secured in the same manner as deposits of public funds or by loans secured by mortgages, deeds of trust or other security instruments guaranteed or insured by the United States, or any instrumentality thereof, or by any private mortgage insurance or surety company which is approved by the federal home loan mortgage corporation or the federal national mortgage association and which is

licensed to do business in this state, if the private mortgage insurance shall be in a dollar amount sufficient to satisfy the mortgage insurance requirements for loans eligible to be purchased by the federal home loan mortgage corporation or the federal national mortgage association or any other agency or department of the United States. The security shall not be necessary if the bonds issued to make the loans are guaranteed or insured by an agency, department or instrumentality of the United States. ~~Any bonds issued to make loans shall be ratable as "A" or better by a nationally recognized bond rating agency.~~

12. Subject to this section, to purchase or enter into advance commitments to purchase loans or any loan interests secured by mortgages, deeds of trust or other security instruments relating to projects which are owner-occupied single family dwelling units from or with any bank, savings and loan institution, credit union or other mortgage lender, whether organized or existing under the laws of this state, another state or the United States, which is qualified to do business in this state, on terms and conditions as may be determined by the corporation. The purpose of the purchases shall be to finance directly or indirectly the acquisition, construction, improvement or equipping of projects which are owner-occupied single family dwelling units to be occupied by persons of low and moderate income. If the bonds issued to make purchases are not guaranteed or insured by an agency, department or instrumentality of the United States or secured by a letter of credit, insurance policy, surety bond or other credit facility from a financial institution or a combination of such instruments, the purchased loans shall be guaranteed or insured by the United States or any agency, department, or instrumentality thereof, or by any private mortgage insurance or surety company which is approved by the federal home loan mortgage corporation or the federal national mortgage association or secured by a letter of credit, insurance policy, surety bond or other credit facility from a financial institution or a combination of such instruments. In the case of private mortgage insurance, the insurance shall be in a dollar amount sufficient to satisfy the mortgage insurance requirements for loans eligible to be purchased by the federal home loan mortgage corporation or the federal national mortgage association or any other agency or department of the United States. ~~Any bonds issued to purchase loans shall be ratable as "A" or better by a nationally recognized bond rating agency.~~ If the purchased loans have not been originated on behalf of the corporation to directly finance projects, the corporation shall require that the institution receiving proceeds from the sale of the loans use the proceeds to make loans to finance or refinance the acquisition, construction, improvement or equipping of projects which are owner-occupied single family dwelling units to be occupied by persons of low and moderate income, as determined by the corporation.

13. To elect not to issue an amount of qualified mortgage revenue bonds which it may otherwise issue during any calendar year and to issue instead

mortgage credit certificates pursuant to a qualified mortgage credit certificate program as defined in section 35-901.

14. To make loans to any person or entity owning residential property or to make loans to any bank, savings and loan association, credit union or other mortgage lender, or to purchase or enter into advance commitments to purchase funding for the repair or improvement of property related to residential or neighborhood improvement projects. An authority may issue its bonds or incur other obligations to fund loans or purchases. An authority shall establish the provisions relating to bonds or other obligations, including the security for the loans, and shall establish the guidelines for the approval, funding, purchasing and security of the loans.

15. To enter into contracts and execute any agreements or instrument and do any other act necessary or appropriate to carry out its purposes.

16. To exercise the powers granted by this chapter, including through the issuance of bonds, to provide financing or refinancing for projects other than a project as defined in section 35-701, paragraph 8, subdivision (a), item (v), located in whole or in part outside this state, provided that the board of directors of the corporation has determined that the exercise of such powers will provide a benefit within this state.

B. The corporation shall not have the power to operate any project as a business other than as lessor or seller nor shall any corporation make any loans pursuant to subsection A, paragraph 9 of this section for projects which are owner-occupied single family dwelling units except by utilizing as its contract agent a mortgage lender, whether organized or existing under the laws of this state, another state or the United States, which is qualified to do business in this state. Any project established pursuant to subsection A, paragraph 14 of this section is not required to use a mortgage lender as its contract agent. The corporation shall not permit any funds derived from the sale of its bonds to be used, loaned or provided for the acquisition of any facilities of a public utility or public service corporation, except as provided in section 35-701. The corporation shall comply with title 38, chapter 3, article 3.1.

C. A person's or family's eligibility for an owner-occupied single family dwelling unit financed pursuant to subsection A, paragraph 11, 12 or 13 of this section shall be determined by considering the person's or family's income. Owner-occupied single family dwelling units shall only be financed as provided in subsection A, paragraphs 11, 12 and 13 of this section unless the owner-occupied single family dwelling units are located in an area designated pursuant to section 36-1479 as a slum or blighted area as defined in section 36-1471 by a municipality having a population of more than two hundred fifty thousand persons according to the most recent United States decennial census or a special census conducted in accordance with section 42-5033.

D. In the exercise of its powers authorized in this section with respect to projects which are owner-occupied single family dwelling units to be occupied by persons of low and moderate income and financed pursuant to subsection A, paragraphs 11 and 12 of this section, the corporation shall establish, subject to approval by the governing body of the authorizing county or municipality, standards and requirements applicable to the purchase of loans or the making of loans to mortgage lenders, including:

1. The eligibility of mortgage lenders, including the requirement that all mortgage lenders be approved as mortgagees by the federal housing administration and the veterans administration and be approved as sellers and servicers of mortgage loans by the federal national mortgage association or federal home loan mortgage corporation.

2. The time within which mortgage lenders must make commitments and disbursements for mortgage loans.

3. The character of residences to be financed by mortgage loans.

4. The eligibility of persons of low and moderate income, including the requirement that no person of low and moderate income may receive, more than once in a three year period, a mortgage loan financed directly or indirectly from the proceeds of bonds issued by the corporation.

5. The terms and conditions of mortgage loans to be acquired.

6. The amounts and types of insurance coverage required on residences, mortgages and bonds.

7. The representations and warranties of mortgage lenders confirming compliance with the standards and requirements.

8. Restrictions as to interest rate and other terms of mortgage loans and the return realized on mortgage loans by mortgage lenders.

9. The type and amount of collateral security to be provided to assure repayment of any loans from the corporation and to assure repayment of bonds.

10. Assignment of the mortgage loans to a trustee acting on behalf of the corporation which shall be either a bank or trust company doing business in this state, having an officially reported combined capital surplus, undivided profits and reserves of not less than fifteen million dollars. Trustees must be approved to sell mortgages to and service mortgages for the federal national mortgage association and the federal home loan mortgage corporation.

11. Any other matters related to the purchase of mortgage loans or the making of loans to mortgage lenders deemed relevant by the corporation. In establishing standards and requirements, the corporation shall be guided by the following standards:

(a) The amount of mortgage monies proposed to be made available in the area is to be reasonably related to the demand for mortgage monies.

(b) For projects of owner-occupied single family dwelling units to be occupied by persons of low and moderate income and financed pursuant to subsection A, paragraphs 11 and 12 of this section, at least ten per cent of all mortgage monies proposed to be made available by the corporations other than mortgage monies reserved for any period to finance mortgage loans on residences located within an area designated as a slum or blighted area as defined in section 36-1471 shall be reserved for at least a three month period for the financing of mortgage loans on manufactured housing unless the department of commerce makes a determination that any bonds issued to make loans will not be ratable as "A" or better by a nationally recognized bond rating agency, in which case no such reservation is required. If all the mortgage monies reserved for manufactured housing are not committed or used to make mortgage loans during this three month period, the mortgage lender may allocate the remaining monies to finance mortgage loans on any single family dwelling unit.

(c) Any departure from the level of commitment fees, origination fees or servicing fees normally charged by a mortgage lender is to be justified in the context of the transaction.

(d) The costs, fees and expenditures associated with the issuance of bonds are to be reasonably related to the services provided.

E. Only corporations, the formations of which have been approved by the governing body of a county having a population of more than nine per cent of the total state population computed according to the most recent United States decennial census or by the governing body of a municipality having a population of more than nine per cent of the total state population computed according to the most recent United States decennial census, shall have the powers granted in subsection A, paragraphs 11, 12 and 13 of this section. Except as provided in section 35-913, subsections E and F, a corporation shall not exercise the powers granted in subsection A, paragraphs 11, 12 and 13 of this section outside of its jurisdiction. For the purposes of a refunding of any mortgage revenue bond issued before January 1, 2000, the proceeds from the refunding may be used outside the jurisdiction of the corporation issuing the refunding bonds except the corporation issuing the refunding bonds shall obtain the consent from another corporation with powers granted in subsection A, paragraphs 11, 12 and 13 of this section if the proceeds of the refunding are to be used within the jurisdiction of that corporation. For the purposes of exercising the powers granted in subsection A, paragraphs 11, 12 and 13 of this section, the jurisdiction of a corporation formed on behalf of a county includes all incorporated and unincorporated territory in the county.

F. A corporation may not permit proceeds of bonds or a qualified mortgage credit certificate program to be used to finance projects which are owner-occupied single family dwelling units within the corporate limits of an incorporated city or town unless the governing body of the city or town has approved the general location and character of the residences to be financed. The corporation, prior to the issuance of bonds or mortgage credit certificates for that purpose, shall give written notice to the governing body of each city or town in which it intends to permit proceeds of an issue of bonds or mortgage credit certificates to be used to finance projects which are owner-occupied single family dwelling units and of the general location and character of the residences which may be financed. The governing body of the city or town shall be deemed to have given its approval unless it has denied approval by formal action of the governing body within twenty-one days after receiving the written notice from the corporation. Approvals given or deemed to have been given with respect to use of proceeds of an issue of bonds or mortgage credit certificates under this subsection may not be withdrawn. Denials may be withdrawn by the governing body of a city or town and approval may be given thereafter if the corporation issuing the bonds or mortgage credit certificates approves the withdrawal of the denial.

G. Two or more corporations with the powers granted by subsection E of this section may provide:

1. That a corporation, the formation of which was approved by the governing body of a county or city, may exercise the powers granted in subsection A, paragraphs 11, 12 and 13 of this section, with respect to owner-occupied single family dwelling units located in all counties and cities which are parties to a cooperative agreement.

2. For the joint exercise by two or more corporations, each formed with the approval of a governing body executing the cooperative agreement, of the powers granted in subsection A, paragraphs 11, 12 and 13 of this section, with respect to owner-occupied single family dwelling units located in all counties and cities which are parties to the cooperative agreement. The agreement shall specify the calendar year or years for which it is effective, the means by which the agreement may be terminated prior to the expiration of the calendar year or years and the aggregate principal amount of bonds which may be issued by the designated corporation or corporations to exercise the powers pursuant to the agreement. The corporation or corporations designated in the agreement to exercise the powers in the counties and cities which are parties to the agreement are the only corporation or corporations authorized and having jurisdiction to exercise the powers and to issue bonds to carry out the powers in the counties and cities while the agreement is in effect. The combined jurisdictions of all the counties and cities which are parties to the cooperative agreement are the jurisdictions of the corporation or corporations designated to exercise the powers granted in subsection A, paragraphs 11, 12 and 13 of this section within the meaning of the mortgage subsidy bond tax act of 1980 (P.L. 96-499; 26 United States Code section 103A).

H. It shall not be a conflict of interest under title 38, chapter 3, article 8, and this chapter, for any trustee or any mortgage lender to enter into loan agreements with, or to sell mortgage loans to, the corporation as contemplated in subsection A, paragraphs 11, 12 and 13 of this section, act for or under contract with the corporation as a mortgage originator, servicer, paying agent or depository, act as holder or dealer of bonds of the corporation or have as a director, officer or employee any member of the board of directors of the corporation or any combination.

I. The department of economic security shall once in each calendar year on or before March 1 determine the median family income of this state for the purposes of this chapter.

J. All areas in this state which are either designated pursuant to section 36-1479 as slum or blighted areas as defined in section 36-1471 or designated as pockets of poverty by the United States department of housing and urban development are designated as areas of chronic economic distress within the meaning of the mortgage subsidy bond tax act of 1980 (P.L. 96-499; 26 United States Code section 103A).

K. Any corporation that is described in subsection E of this section and that desires to exercise the powers granted in subsection A, paragraphs 11, 12 and 13 of this section, with respect to owner-occupied single family dwelling units located in two or more counties, may do so if the corporation, before issuing bonds or mortgage credit certificates for that purpose, gives written notice to the governing bodies of the other counties and their respective corporations, if any, of its intent to permit the proceeds of an issue of bonds or mortgage credit certificates to finance projects within its jurisdiction which are owner-occupied single family dwelling units. The governing body of a county and its respective corporation, if any, which have been given notice are deemed to have approved the use of the proceeds or mortgage credit certificates for owner-occupied single family dwelling units within their jurisdiction and approved the use of any state ceiling, as defined in section 35-901, unless approval is denied by formal action of the governing body or the board of directors of the corporation, if any, within twenty-one days after receiving written notice from the corporation. Absent a denial of approval as stated in this subsection, a cooperative agreement providing for the exercise of the powers granted in subsection A, paragraphs 11, 12 and 13 of this section is deemed to exist among the applicable counties or corporations. Approvals given or deemed to have been given with respect to the matters stated in this subsection may not be withdrawn. Denials by the governing body of a county apply only to the unincorporated areas of the county. Denials may be withdrawn by the governing body of a county and approval may be given thereafter if the corporation issuing the bonds or mortgage credit certificates approves the withdrawal of the denial. Mortgage credit certificates and bond proceeds issued pursuant to this subsection shall be available on an equitable basis within each of the participating counties.

Sec 3. Section 35-724, Arizona Revised Statutes, is amended to read:

35-724. Security for bonds

A. The principal of and interest on any bonds issued by the corporation shall be secured by a pledge of the revenues, proceeds and receipts or any portion thereof out of which the principal and interest are made payable, and may be secured by a mortgage covering all or any part of the projects and properties from which the revenues, proceeds or receipts so pledged may be derived, including any enlargements of and additions to any such projects and properties thereafter made.

B. THE BONDS, WHEN ISSUED, MUST CARRY A RATING OF "AAA" OR OTHER HIGHEST PUBLIC DEBT RATING BY PRIVATE RATING AGENCIES. IF NECESSARY, THE RESOLUTION UNDER WHICH THE BONDS ARE AUTHORIZED SHALL PROVIDE FOR A CONTRACT WITH A FINANCIAL INSTITUTION, INSURANCE COMPANY OR INDEMNITY COMPANY TO PROVIDE FOR:

1. ENHANCED SECURITY IN THE FORM OF BOND INSURANCE, A LINE OF CREDIT, A LETTER OF CREDIT OR OTHER ADDITIONAL SECURITY OR CREDIT ENHANCEMENTS.

2. THE PAYMENT OF THE COST OF THE ADDITIONAL SECURITY FROM AMOUNTS PRODUCED FROM THE BOND ISSUE OR FROM OTHER AVAILABLE SOURCES.

3. REIMBURSEMENT OBLIGATIONS IN CONNECTION WITH THE ADDITIONAL SECURITY.

C. The resolution under which the bonds are authorized to be issued and any such mortgage may contain any agreements and provisions respecting the maintenance of the projects and properties covered thereby, the fixing and collection of rents for any portions thereof leased by the corporation to others, the fixing and collection of proceeds from the sale of any projects and properties by the corporation to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable and not in conflict with the provisions of this article.

D. Each pledge, lease, agreement and mortgage made by the corporation for the benefit or security of any of the bonds of the corporation shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made have been fully paid. ~~In the event of~~ A default in such payment or in any agreements of the corporation made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any mortgage executed as security therefore, may be enforced by mandamus, the appointment of a receiver, or by foreclosure of any such mortgage, or any one or more of such remedies.

Sec. 4. Title 44, chapter 9, Arizona Revised Statutes, is amended by adding article 22, to read:

ARTICLE 22. POSTSECONDARY INSTITUTION LOAN COMMISSION

44-1378. Postsecondary institution loan commission

A. THE POSTSECONDARY INSTITUTION LOAN COMMISSION IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

1. TWO MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE AND WHO ARE MEMBERS OF DIFFERENT POLITICAL PARTIES. THE PRESIDENT OF THE SENATE SHALL DESIGNATE ONE OF THESE MEMBERS TO SERVE AS COCHAIRPERSON OF THE COMMISSION.

2. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND WHO ARE MEMBERS OF DIFFERENT POLITICAL PARTIES. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DESIGNATE ONE OF THESE MEMBERS TO SERVE AS COCHAIRPERSON OF THE COMMISSION.

3. FOUR MEMBERS WHO REPRESENT POSTSECONDARY INSTITUTIONS IN THIS STATE AND WHO ARE APPOINTED BY THE GOVERNOR.

4. THREE MEMBERS WHO REPRESENT THE LOAN INDUSTRY IN THIS STATE, ONE OF WHOM IS APPOINTED BY THE PRESIDENT OF THE SENATE, ONE OF WHOM IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY THE GOVERNOR.

B. APPOINTED MEMBERS SERVE AT THE PLEASURE OF THE PERSON WHO MADE THE APPOINTMENT.

C. COMMISSION MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION, BUT MEMBERS ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES UNDER TITLE 38, CHAPTER 4, ARTICLE 2.

D. THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO TERMS OF TWO, FOUR AND SIX YEARS IN OFFICE. ALL SUBSEQUENT MEMBERS SERVE SIX YEAR TERMS OF OFFICE. THE COCHAIRPERSONS SHALL NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON APPOINTMENTS OF THESE TERMS.

E. THE COMMISSION SHALL MAKE A REQUEST FOR PROPOSALS EVERY THREE YEARS FOR AN ENTITY DESIGNATED AS A NONPROFIT STUDENT LOAN CORPORATION UNDER SECTION 150(d) OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986 TO DO ALL OF THE FOLLOWING:

1. BORROW MONEY AND ISSUE TAX EXEMPT BONDS PURSUANT TO TITLE 35, CHAPTER 5 TO FINANCE THE COMMISSION'S RESPONSIBILITIES.

2. LEND MONIES TO POSTSECONDARY INSTITUTION STUDENTS.

3. ISSUE SCHOLARSHIPS TO POSTSECONDARY INSTITUTION STUDENTS.

4. PURCHASE ALREADY ISSUED STUDENT LOANS ON THE SECONDARY MARKET.

F. THE REQUESTS FOR PROPOSALS SUBMITTED PURSUANT TO SUBSECTION E SHALL INCLUDE FULL DISCLOSURE OF ANY AFFILIATION OR ARRANGEMENT WITH OTHER FINANCIAL INSTITUTIONS.

G. THE NONPROFIT STUDENT LOAN CORPORATION SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSION, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE NONPROFIT STUDENT LOAN CORPORATION SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

1. THE NUMBER OF LOANS ORIGINATED.

2. PORTFOLIO ACQUISITIONS AND SECONDARY PURCHASES.

3. INTEREST RATE CHARGES, INCENTIVES AND BENEFITS TO BORROWERS.

4. ANY AFFILIATION WITH STUDENT LOAN CORPORATIONS, SERVICERS OR GUARANTORS OR ANY OTHER FINANCIAL INSTITUTION.

H. THE NONPROFIT STUDENT LOAN CORPORATION SHALL NOT:

1. ENGAGE IN ILLEGAL ACTIVITY OR ACTIVITY IN VIOLATION OF RULES ESTABLISHED BY THE UNITED STATES DEPARTMENT OF EDUCATION THAT WOULD RESULT IN SANCTIONS AGAINST THE NONPROFIT STUDENT LOAN CORPORATION.

2. ENGAGE IN ANY EXCESS BENEFIT TRANSACTION THAT RESULTS IN PRIVATE INUREMENT UNDER THE INTERNAL REVENUE CODE.

Sec. 5. Intent

It is the intent of the Legislature that the postsecondary institution loan program established by this act be fully operational by January 1, 2008. However, if the postsecondary institution loan program established by this act is not fully operational by January 1, 2008, current postsecondary institution loan programs shall remain in effect until the postsecondary institution loan program established by this act becomes fully operational by January 1, 2009.