

~~CTEDs; nonprofits; postsecondary institutions; agreements..~~
(now: postsecondary board; tuition recovery fund)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 242
SENATE BILL 1308

AN ACT

AMENDING SECTIONS 32-3058, 32-3071, 32-3072 AND 32-3073, ARIZONA REVISED
STATUTES; RELATING TO THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3058, Arizona Revised Statutes, is amended to
3 read:

4 32-3058. Records; preservation; seizure; confidentiality;
5 release

6 A. If a person who holds a private vocational program license or
7 license to grant degrees discontinues operation, the chief administrative
8 officer of the educational institution shall file with the board the
9 original or ~~legible true~~ ELECTRONIC copies, OR BOTH, of all educational
10 records of the institution as specified by the board.

11 B. Educational records include at least all educational information
12 required by colleges or vocational institutions in considering students
13 for transfer or advanced study, ~~educational records~~ INCLUDING ACADEMIC
14 TRANSCRIPTS of each student and former student and financial ~~and~~
15 ACCOUNTING records of each student and former student.

16 C. If it appears to the board that any educational records of an
17 educational institution are in danger of being destroyed, secreted,
18 mislaid or otherwise made unavailable to the board, the board may seize
19 and take possession of the educational records on its own motion and
20 without the order of any court.

21 D. The board shall retain the educational records it receives
22 pursuant to sections 41-151.15 and 41-151.19. These records are
23 confidential and are not subject to review by the general public. The
24 board shall establish procedures for access to and release of such records
25 to students and their authorized representatives.

26 Sec. 2. Section 32-3071, Arizona Revised Statutes, is amended to
27 read:

28 32-3071. Definitions

29 In this article, unless the context otherwise requires:

30 1. "Assessment" means the amount a private postsecondary education
31 institution is required to pay to the student tuition recovery fund.

32 2. "Ceasing operations" means THAT a private postsecondary
33 education institution ~~that~~ has stopped offering educational courses or
34 programs to the public for any reason.

35 3. "Distance learning instruction" means a written correspondence
36 or ~~electronic medium~~ ONLINE education program for students WHO ARE
37 enrolled in an institution licensed under this chapter.

38 4. "Fund" means the student tuition recovery fund.

39 5. "Newly enrolled student" means a student WHO IS enrolling with a
40 private postsecondary education institution for the first time ~~or~~
41 ~~reenrolling after an absence from the institution for one or more years.~~

42 6. "Person injured" means a student of a private postsecondary
43 education institution ~~which is not exempt from this article pursuant to~~
44 ~~section 32-3072, subsection D and which~~ THAT charges prepaid tuition to a
45 student who is damaged monetarily by the institution ceasing operations

1 before fulfilling its contractual obligations or fully providing the
2 services ~~which~~ THAT were paid for in advance. Person injured does not
3 include a nonresident student who is eligible to claim for recovery under
4 a student tuition recovery fund or similar fund in the student's state of
5 residence.

6 7. "Prepaid tuition" means monies THAT ARE advanced to an
7 educational institution before the educational institution provides its
8 service.

9 8. "Private postsecondary education institution" or "institution"
10 means an educational institution THAT IS subject to licensure under this
11 chapter.

12 ~~9. "Regional accrediting agency" means an agency which is~~
13 ~~recognized by the United States department of education and which~~
14 ~~accredits degree granting institutions operating in a designated~~
15 ~~geographic region.~~

16 ~~10. "Specialized accrediting agency" means an agency which is~~
17 ~~recognized by the United States department of education and which~~
18 ~~accredits individual programs offered by institutions and not the~~
19 ~~institutions themselves.~~

20 ~~ii.~~ 9. "Total course cost" means the tuition and other fees THAT
21 ARE charged by the private postsecondary education institution for each
22 course offered.

23 Sec. 3. Section 32-3072, Arizona Revised Statutes, is amended to
24 read:

25 32-3072. Student tuition recovery fund

26 A. The student tuition recovery fund is established and shall be
27 administered by the board. A person WHO IS injured by a private
28 postsecondary education institution ceasing operations may recover from
29 the fund an amount THAT DOES not ~~to~~ exceed the actual damages sustained.

30 B. ~~Except as provided in subsection D of this section,~~ Each private
31 postsecondary education institution ~~which~~ THAT collects prepaid tuition
32 shall annually pay an assessment to the board for each newly enrolled
33 student in an amount equal to the sum of two-tenths of one ~~per cent~~
34 PERCENT of the total course cost for each newly enrolled student, NOT TO
35 EXCEED \$10 PER STUDENT. A PRIVATE POSTSECONDARY EDUCATION INSTITUTION IS
36 NOT REQUIRED TO PAY MORE THAN \$25,000 PER ANNUAL ASSESSMENT PERIOD. A
37 private postsecondary EDUCATION institution ~~shall~~ IS not ~~be~~ required to
38 pay assessments for newly enrolled students who are not residents of this
39 state AND for whom the institution has paid a student tuition recovery
40 fund assessment or an assessment to a similar fund in the student's state
41 of residence. A private postsecondary EDUCATION institution ~~shall~~ IS not
42 ~~be~~ required to pay assessments for students who are not residents of this
43 state and who are enrolled in distance learning instruction.

1 C. ~~The total assessment for each newly enrolled student shall not~~
2 ~~be more than ten dollars.~~ If on June 30 of any year the balance in the
3 fund exceeds ~~five hundred thousand dollars~~ \$500,000, and on notice by the
4 board to institutions, only institutions and schools that are newly or
5 provisionally licensed during or after that fiscal year then ended shall
6 pay the assessment.

7 ~~D. Institutions accredited by a regional or specialized accrediting~~
8 ~~agency recognized by the United States department of education are exempt~~
9 ~~from this section.~~

10 Sec. 4. Section 32-3073, Arizona Revised Statutes, is amended to
11 read:

12 32-3073. Powers and duties of board over fund

13 A. The board shall:

- 14 1. Administer the student tuition recovery fund.
15 2. Receive claims against the fund from persons injured and provide
16 students' educational records from closed institutions.
17 3. Determine the amount of monies in any fiscal year to be drawn to
18 administer the fund.

19 4. Deduct reasonable costs from the fund in addition to those
20 ~~permitted~~ ALLOWED in paragraph 2 OF THIS SUBSECTION for any of the
21 following purposes:

- 22 (a) Seizing student records from a closed school.
23 (b) Processing student record requests.
24 (c) Reimbursing the board or a third party as the custodian of
25 records.

26 5. NOT LATER THAN TEN BUSINESS DAYS AFTER A BOARD MEETING, notify
27 institutions ~~in any fiscal year~~, pursuant to section 32-3072, SUBSECTION
28 C, that only institutions ~~which~~ THAT are newly or provisionally licensed
29 during or after that fiscal year shall pay the assessment.

30 6. REVIEW THE BALANCE OF THE FUND AT THE FIRST BOARD MEETING THAT
31 IS HELD AFTER JUNE 30 OF EACH YEAR.

32 ~~6.~~ 7. Adopt rules necessary to administer this article.

33 B. If an institution THAT IS subject to assessments under section
34 32-3072 ceases operations with assessments unpaid to the board, the board
35 and the attorney general shall recover the assessments from the
36 institution.

37 Sec. 5. Retroactivity

38 This act applies retroactively to from and after December 31, 2019.

39 Sec. 6. Requirements for enactment; two-thirds vote

40 Pursuant to article IX, section 22, Constitution of Arizona, this
41 act is effective only on the affirmative vote of at least two-thirds of
42 the members of each house of the legislature and is effective immediately
43 on the signature of the governor or, if the governor vetoes this act, on
44 the subsequent affirmative vote of at least three-fourths of the members
45 of each house of the legislature.

APPROVED BY THE GOVERNOR APRIL 16, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2021.