

No. 1988-96

AN ACT

SB 794

Amending the act of August 7, 1963 (P.L.549, No.290), entitled, as amended, "An act creating the Pennsylvania Higher Education Assistance Agency; defining its powers and duties; conferring powers and imposing duties on the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, Superintendent of Public Instruction and the Department of Auditor General; and making appropriations," further providing for administrative loan collection process and for aggregate indebtedness.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4.3(i) of the act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act, added April 29, 1982 (P.L.365, No.102), is amended to read:

Section 4.3. Administrative Loan Collection Process.—* * *

(i) After an order of default has been entered by the board of directors or the court and the time for appeal has expired, the agency may execute upon the wages, salaries or commissions in the hands of an employer or any other person including the debtor when self-employed in order to effect the repayment of any sums due to the agency as determined by the provisions of this act. An employer shall include any person, partnership, association, corporation, institution, governmental body, unit or agency, school district or municipality, or any other entity employing one or more persons for a salary, wage, commission or other compensation. *Execution shall comply with the following:*

(1) The agency shall initiate such action by sending to the debtor's last known address notice of its intent and to the employer a notice of execution upon wages and upon receipt of such notice, the employer shall certify to the agency the amount of wages, salary, commissions or other compensation earned by the debtor. The employer shall pay to the agency such percentage of that amount as the agency demands, not to exceed ten per cent of the wages, salary, commissions or other compensation paid to the debtor during a given pay period, on a timely basis, but not less than once a month or over an extended period if agreed to by the agency. *If the agency has instituted a notice of execution upon wages to recover money owed the agency, the agency may assess a civil penalty, not to exceed the amount of the notice of execution, against an employer if the employer does any of the following:*

(i) *Fails to pay the agency the amount due within the prescribed amount and limits of time.*

(ii) *Dismisses the responsible debtor from its employment because of the filing of the notice of execution.*

(iii) *Takes disciplinary action against the responsible debtor because of the filing of the notice of execution.*

(2) The agency may execute upon assets or property of a borrower by writ of execution or such other process as may be necessary or proper to carry into effect the judgment entered upon any order of the board. In the case of a writ of execution upon wages to recover moneys owed the agency, failure of an employer to pay to the agency the amount due within the prescribed amount and limits of time shall place the employer in contempt of the court issuing such writ of execution.

(3) Nothing [herein] in this subsection shall deny to any debtor the rights afforded debtors under Federal and State exemption laws.

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Section 2. Section 5.1(a.1) of the act, added December 29, 1982 (P.L.1450, No.330), is amended to read:

Section 5.1. Bonds, Notes and other Indebtedness.—***

(a.1) The proceeds realized from the sale of notes, bonds or similar indebtedness shall be used for the purpose of purchasing, making or guaranteeing loans to students or parents, or to lending institutions or post-secondary institutions for the purpose of student loans and the cost of issuance of the indebtedness, the establishment of reserve funds from the proceeds of the indebtedness, administration of the loans purchased, made or guaranteed and other costs associated with loans purchased, made or guaranteed with funds from the proceeds of the indebtedness. The aggregate principal amount of bonds, notes and similar evidences of indebtedness of the agency shall not exceed [ten] *twenty* per cent of the total of loans *purchased, made or* guaranteed [or made] by the agency.

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Section 3. This act shall take effect in 60 days.

APPROVED—The 13th day of July, A. D. 1988.

ROBERT P. CASEY