

By: Zaffirini

S.B. No. 40

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the functions of the Texas Guaranteed Student Loan
3 Corporation.

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

5 SECTION 1. Sections 57.01 and 57.11, Education Code, are
6 amended to read as follows:

7 Sec. 57.01. DECLARATION OF POLICY. The legislature, giving
8 due consideration to the historical and continuing interest of the
9 people of the State of Texas in encouraging deserving and qualified
10 persons to realize their aspirations for education beyond high
11 school, finds and declares that postsecondary education for
12 qualified persons [~~those~~] who desire to pursue such [~~an~~] education
13 [~~and are properly qualified therefor~~] is important to the welfare
14 and security of this state and the nation and, consequently, is an
15 important public purpose. The legislature finds and declares that
16 the state can achieve its full economic and social potential only if
17 every individual has the opportunity to contribute to the full
18 extent of the individual's [~~his or her~~] capabilities and only when
19 financial barriers to the individual's [~~his or her~~] economic,
20 social, and educational goals are removed. It is, therefore, the
21 purpose of this chapter to establish the Texas Guaranteed Student
22 Loan Corporation to promote and improve the postsecondary
23 educational access and success of students in this state and the
24 nation by:

1 (1) administering [~~administer~~] a guaranteed student
2 loan program or any other student loan program the corporation is
3 authorized, qualified, or required by federal or other law to
4 administer in order to assist qualified [~~Texas~~] students in Texas
5 and across the nation in receiving a postsecondary education in
6 this state or elsewhere in the nation; and

7 (2) providing students and families, student loan
8 borrowers, educational institutions, and other entities both in
9 this state and nationally, on a fee-for-service basis when the
10 corporation determines appropriate, with [~~provide~~] necessary and
11 desirable information, products, tools, functions, and services
12 related to public and private student loan and student financial
13 aid programs [~~the loan program~~], including:

14 (A) support services relating to financial
15 literacy, student loan debt repayment considerations, student loan
16 default prevention, policy training, the effective and efficient
17 delivery of higher education student financial aid, and college
18 promotion outreach; and

19 (B) cooperative awareness efforts with
20 appropriate educational and civic associations designed to
21 disseminate postsecondary education awareness information,
22 including information regarding student financial aid, [~~and~~] the
23 Federal Family Education Loan Program and other student loan
24 programs, and other relevant topics [~~including the prevention of~~
25 ~~student loan default~~].

26 Sec. 57.11. TEXAS GUARANTEED STUDENT LOAN CORPORATION. (a)
27 The Texas Guaranteed Student Loan Corporation is created to:

1 (1) administer any student loan program the
2 corporation is required, qualified, or authorized by federal or
3 other law to administer and to provide any related information,
4 products, tools, functions, and services in accordance with
5 applicable law, including the Federal Family Education Loan Program
6 and the Federal Direct Student Loan Program; and

7 (2) administer any other program or function [the
8 programs] authorized by this chapter and provide related services.

9 (b) The corporation is a public nonprofit corporation and,
10 except as otherwise provided in this chapter, has all the powers and
11 duties incident to a nonprofit corporation under Chapter 22,
12 Business Organizations Code [the Texas Non-Profit Corporation Act
13 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)].

14 (c) [(b)] Except as otherwise provided by law, all expenses
15 of the corporation shall be paid from revenue [income] of the
16 corporation.

17 (d) [(c)] The corporation is subject to Chapters [Chapter]
18 551 and 552, Government Code.

19 (e) [(d)] Student loan borrower information collected,
20 assembled, or maintained by the corporation is confidential and is
21 not subject to disclosure under Chapter 552, Government Code.

22 SECTION 2. Section 57.1311(b), Education Code, is amended
23 to read as follows:

24 (b) The training program must provide the person with
25 information regarding:

26 (1) the provisions of this chapter and the
27 corporation's programs, functions, rules, and budget;

1 (2) the results of the most recent formal audit of the
2 corporation;

3 (3) the requirements of laws that primarily relate to
4 or affect the business of the corporation [~~relating to open~~
5 ~~meetings, public information, and conflicts of interest~~]; and

6 (4) any applicable ethics policies adopted by the
7 corporation [~~or the Texas Ethics Commission~~].

8 SECTION 3. Section 57.18, Education Code, is amended by
9 adding Subsection (c) to read as follows:

10 (c) The board is not subject to Section 551.125, Government
11 Code. Notwithstanding any other provision of Chapter 551,
12 Government Code, any of the corporation's directors may attend any
13 board meeting by telephone conference call, provided that the
14 telephone conference is audible to the public at the meeting
15 location specified in the meeting's notice during each part of the
16 meeting that is required to be open to the public.

17 SECTION 4. Section 57.19(d), Education Code, is amended to
18 read as follows:

19 (d) The president or the president's designee shall develop
20 a [an intra-agency] career ladder program for the corporation. The
21 program shall require internal corporate [~~intra-agency~~] postings
22 of all nonentry level positions concurrently with any public
23 posting.

24 SECTION 5. Section 57.20(a), Education Code, is amended to
25 read as follows:

26 (a) The corporation shall appoint an ombudsman [~~maintain a~~
27 ~~system~~] to promptly and efficiently act on complaints filed with

1 the corporation. The ombudsman [~~corporation~~] shall maintain
2 information about parties to the complaint, the subject matter of
3 the complaint, a summary of the results of the review or
4 investigation of the complaint, and its disposition.

5 SECTION 6. Sections 57.21(a) and (c), Education Code, are
6 amended to read as follows:

7 (a) The corporation shall take an active role in
8 coordinating, facilitating, promoting, and providing assistance
9 and support to:

10 (1) programs that focus on and disseminate [~~designed~~
11 ~~to make available to the residents of this state~~] information
12 regarding [~~concerning~~] postsecondary education awareness and the
13 availability of student financial aid[, ~~including the Federal~~
14 ~~Family Education Loan Program,~~] and that [~~to~~] assist families in
15 obtaining [~~needed~~] postsecondary education financing;

16 (2) programs designed to assist students, families,
17 borrowers, and schools in preventing [~~prevent~~] student loan default
18 throughout the life of the loan, provided that such programs are
19 funded by statutory or regulatory mandate, compensation, grant,
20 contract, award, or other appropriate means; and

21 (3) programs designed to increase student retention
22 and graduation rates in postsecondary education.

23 (c) To the extent practicable, each [~~Each~~] state agency
24 that conducts higher education and financial aid outreach
25 activities shall enter into a memorandum of understanding with the
26 corporation. The memorandum of understanding may [~~must~~] outline
27 how the corporation and the state agency will coordinate outreach

1 activities to maximize resources and avoid duplication.

2 SECTION 7. The heading to Section 57.22, Education Code, is
3 amended to read as follows:

4 Sec. 57.22. APPLICATION OF BUSINESS ORGANIZATIONS CODE [~~THE~~
5 ~~TEXAS NON-PROFIT CORPORATION ACT~~].

6 SECTION 8. Section 57.22(a), Education Code, is amended to
7 read as follows:

8 (a) The corporation is subject to Chapter 22, Business
9 Organizations Code [~~the Texas Non-Profit Corporation Act (Article~~
10 ~~1396-1.01 et seq., Vernon's Texas Civil Statutes)~~], except that:

11 (1) the corporation may not make donations for the
12 public welfare or for charitable or scientific purposes or in aid of
13 war activities;

14 (2) the corporation is not required to file articles
15 of incorporation;

16 (3) the corporation is not subject to voluntary or
17 involuntary dissolution;

18 (4) the corporation may not be placed in receivership;
19 and

20 (5) the corporation is not required to make reports to
21 the secretary of state under Section 22.357, Business Organizations
22 Code [~~Article 9.01 of that Act~~].

23 SECTION 9. Section 57.24, Education Code, is amended to
24 read as follows:

25 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
26 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
27 may participate in a revenue-generating activity that is reasonably

1 aligned [~~consistent~~] with or that may further the corporation's
2 purposes or business if the board determines that the revenue from
3 the activity may:

4 (1) [~~is sufficient to~~] cover the costs of the
5 activity; and

6 (2) provide funds to support activities approved by
7 the board as the corporation's philanthropic activities or as
8 having strategic or positioning importance to the corporation [~~may~~
9 ~~contribute to a reduction in the insurance premium paid by students~~
10 ~~under Section 57.43 of this code~~].

11 (b) If [~~, under Subsection (a) of this section,~~] the board
12 authorizes the corporation to perform additional services under
13 Subsection (a), the corporation may not require postsecondary
14 educational institutions or students to use those services unless
15 required by state or federal law.

16 SECTION 10. Section 57.41(a), Education Code, is amended to
17 read as follows:

18 (a) The corporation shall serve as the designated guarantee
19 agency under the Federal Family Education Loan Program in
20 accordance with [~~loans made to eligible borrowers by eligible~~
21 ~~lenders as provided by the federal guaranteed student loan program~~
22 ~~under~~] the Higher Education Act of 1965, 20 U.S.C. Section [~~Sec.~~]
23 1001 et seq., as amended, regulations adopted under that act, and
24 other applicable federal law.

25 SECTION 11. Section 57.461, Education Code, is amended to
26 read as follows:

27 Sec. 57.461. [~~POSTSECONDARY EDUCATIONAL INSTITUTIONS AND~~

1 ~~LENDER]~~ ADVISORY COMMITTEES. [~~a)~~] The corporation shall
2 establish advisory committees as the board considers appropriate [+

3 ~~(1) an advisory committee that is composed of 15~~
4 ~~members who represent the postsecondary educational institutions~~
5 ~~that participate in the corporation's guaranteed student loan~~
6 ~~program; and~~

7 ~~(2) an advisory committee that is composed of 12~~
8 ~~members including:~~

9 ~~(A) one member who represents the Texas Higher~~
10 ~~Education Coordinating Board; and~~

11 ~~(B) 11 members who represent lenders that~~
12 ~~participate in the corporation's guaranteed student loan program].~~

13 ~~(b) The board shall appoint advisory committee members on~~
14 ~~the recommendation of the president.~~

15 ~~(c) The board may establish other advisory committees as~~
16 ~~the board considers necessary.~~

17 ~~(d) The board shall:~~

18 ~~(1) specify each advisory committee's purpose and~~
19 ~~duties; and~~

20 ~~(2) require each committee to report to the board in a~~
21 ~~manner specified by the board relating to each committee's~~
22 ~~activities and work results.]~~

23 SECTION 12. Sections 57.47(a), (b), and (d), Education
24 Code, are amended to read as follows:

25 (a) If a student borrower defaults on a loan and the
26 corporation is required to honor the guarantee, the corporation may
27 [~~or the Texas Higher Education Coordinating Board shall~~] bring suit

1 against the defaulting party in accordance with the requirements of
2 the Higher Education Act of 1965, 20 U.S.C. Section [~~Sec.~~] 1001 et
3 seq., as amended.

4 (b) A suit against a defaulting party under this section may
5 be brought in the county in which the defaulting person resides, in
6 which the lender is located, or in Travis or Williamson County.

7 (d) Notwithstanding any other law, if the corporation [~~or~~
8 ~~the Texas Higher Education Coordinating Board~~] brings suit against
9 a defaulting party under this section, the corporation [~~or the~~
10 ~~coordinating board, as appropriate,~~] shall pay 50 percent of the
11 filing fee or other costs of court taxed and collected in advance
12 that are in effect on the date on which the suit is filed. If the
13 defaulting borrower prevails in the suit filed under this section,
14 the corporation [~~or the coordinating board, as appropriate,~~] shall
15 pay the remaining 50 percent of the statutory filing fee on the date
16 of the final disposition of the suit. If the corporation [~~or~~
17 ~~coordinating board~~] prevails in the suit:

18 (1) the judgment shall find the defaulting borrower
19 liable to the corporation [~~or the coordinating board, as~~
20 ~~appropriate,~~] for the amount of the filing fee; and

21 (2) the corporation [~~or coordinating board, as~~
22 ~~appropriate,~~] shall pay the remaining 50 percent of the statutory
23 filing fee not later than one week after the date on which the
24 defaulting borrower pays to the corporation [~~or coordinating board,~~
25 ~~as appropriate,~~] the full amount, including the filing fee, for
26 which the borrower is liable to the corporation [~~or coordinating~~
27 ~~board~~].

1 SECTION 13. Section 57.48(a), Education Code, is amended to
2 read as follows:

3 (a) Except as provided by Subsection (g), the corporation
4 shall report to the comptroller the name of any person who is in
5 default on a loan guaranteed or administered under this chapter.
6 The report must contain the information and be submitted in the
7 manner and with the frequency required by rules of the comptroller.

8 SECTION 14. Sections 57.481(a), (b), and (c), Education
9 Code, are amended to read as follows:

10 (a) [~~In this section, "loan default rate" means the rate at~~
11 ~~which student borrowers default on loans guaranteed by the~~
12 ~~corporation as determined by the corporation in compliance with~~
13 ~~federal guidelines.~~

14 [~~(b)~~] The corporation shall take a comprehensive and [~~an~~]
15 active role in coordinating, facilitating, and providing technical
16 assistance on guaranteed student loan default prevention and
17 reduction initiatives and programs that promote responsible
18 borrowing, financial literacy, debt management, research, and
19 informed policymaking [~~in the state~~] and shall work with the
20 appropriate state agencies and other entities inside and outside
21 this state, including eligible postsecondary educational
22 institutions, eligible lenders, servicers, secondary markets, the
23 Texas Higher Education Coordinating Board, the Texas [~~Central~~]
24 Education Agency, [~~and~~] state professional and occupational
25 licensing agencies, and the United States Department of Education.

26 (b) [~~(c)~~] The corporation shall maintain a system of
27 communication among the appropriate state agencies and entities to

1 address student [~~reduce~~] loan default prevention issues [~~claims~~].

2 SECTION 15. Section 57.49, Education Code, is amended to
3 read as follows:

4 Sec. 57.49. COOPERATION OF STATE AGENCIES AND SUBDIVISIONS.

5 Each agency and political subdivision of the state shall cooperate
6 with the corporation in providing information to the agency's or
7 political subdivision's clients concerning student financial aid,
8 including information about delinquency, default prevention, and
9 life-of-loan issues. Each agency and political subdivision shall
10 provide information to the corporation on request to assist the
11 corporation in curing delinquent loans, [~~and~~] collecting defaulted
12 loans, and developing information and reports concerning
13 responsible borrowing.

14 SECTION 16. Sections 57.50, 57.71, and 57.78, Education
15 Code, are amended to read as follows:

16 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
17 an eligible lender may discriminate against an eligible student in
18 making a loan or loan guarantee on the basis of race, age, religion,
19 or sex or any other basis prohibited by applicable law.

20 Sec. 57.71. RESERVE AND OPERATING FUNDS. The corporation
21 shall establish reserve and operating funds in accordance with
22 Sections [~~Section~~] 422, 422A, and 422B of the Higher Education Act
23 of 1965 (20 U.S.C. Sections [~~Section~~] 1072, 1072a, and 1072b), as
24 amended.

25 Sec. 57.78. INVESTMENTS. The reserve and operating funds
26 established by the corporation under Section 57.71 shall [~~All money~~
27 ~~of the corporation may~~] be invested in accordance with Sections

1 422A and 422B of the Higher Education Act of 1965 (20 U.S.C.
2 Sections 1072a and 1072b), as amended, or other applicable federal
3 law [Chapter 2256, Government Code].

4 SECTION 17. The following laws are repealed:

- 5 (1) Sections 57.19(g) and (h), Education Code;
- 6 (2) Sections 57.41(b), (c), and (d), Education Code;
- 7 (3) Section 57.42, Education Code;
- 8 (4) Section 57.43, Education Code;
- 9 (5) Section 57.44, Education Code;
- 10 (6) Section 57.45, Education Code;
- 11 (7) Section 57.46, Education Code; and
- 12 (8) Sections 57.481(d), (e), (f), (g), and (h),
13 Education Code.

14 SECTION 18. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2011.