

ACT 144

ACT 144

H.B. NO. 2169-84

A Bill for an Act Relating to Higher Education.

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Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to authorize the governor of the State of Hawaii to request, pursuant to section 103(e) of the federal Internal Revenue Code of 1954, as amended, that the Hawaii Educational Loan Marketing Corporation (HELMAC) be organized and operated as a private nonprofit Hawaii corporation under the auspices of United Student Aid Funds, Inc. exclusively for the purpose of acquiring educational loan notes incurred under the federal Higher Education Act of 1965 in order to provide a Hawaii secondary market for investments in such loans. Pursuant to the designation of the governor on September 18, 1979, and under the authority of chapter 309, Hawaii Revised Statutes, United Student Aid Funds, Inc. operates the Hawaii Educational Loan Program which guarantees low-interest loans made under the Higher Education Act of 1965 to students and parents by private lending institutions to finance post-secondary education.

It is in the public interest that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual capacity and vocational skills through post-secondary education. It is recognized that the costs connected with post-secondary education are increasingly burdensome, and that it is essential that students and parents responsible for paying these costs have continuing access to adequate sources of low-interest loans under the guaranteed loan programs established by the federal Higher Education Act of 1965.

The legislature finds that in order for private lending institutions in the State of Hawaii both large and small to be able to continue and to increase their current levels of lending to students and parents under the Hawaii Educational Loan Program, the loan purchase program to be provided by a Hawaii-based secondary market such as HELMAC must be made available to provide liquidity for investments in such loans. HELMAC will help to ensure continuing lender participation under the Hawaii Educational Loan Program by requiring, as a condition to its purchase of loans made prior to the date on which the selling lender first originated educational loans in anticipation of the sale to HELMAC, that the selling lender use the proceeds of the sale of such loans for the making of additional educational loans under the Hawaii Educational Loan Program.

The organization and operation of HELMAC will involve no cost to the State of Hawaii, and no bonds or other obligations of HELMAC will constitute a debt, liability, or obligation of the State of Hawaii or of any agency or political subdivision thereof or a pledge of the faith and credit of the State of Hawaii or of any agency or political subdivision thereof.

SECTION 2. Chapter 309, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§309- Authorization of the governor to request the organization of a corporation affiliated with United Student Aid Funds, Inc. to acquire educational loan notes. In order to permit a corporation to issue obligations as contemplated by section 103(e) of the federal Internal Revenue Code of 1954, as amended, in an amount not to exceed \$20,000,000, the governor is hereby authorized to request the organization of a private not-for-profit corporation to be affiliated with United Student Aid Funds, Inc., which corporation shall be established and operated exclusively for the purpose of acquiring educational loan notes incurred by local financial institutions under the federal Higher Education Act of 1965; provided any such corporation:

- (1) Shall be a not-for-profit corporation organized under the laws of the State and authorized to do business within the State of Hawaii and shall be the sole not-for-profit corporation organized within the State requested to exercise the acquisition of student loan notes;
- (2) Shall be required by its articles of incorporation and bylaws to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State; and
- (3) Shall provide in its articles of incorporation and bylaws that it will issue debt only:
 - (A) Upon the approval of the legislature;
 - (B) Upon the approval of the governor and director of finance not more than sixty days prior to the sale of that debt; and
 - (C) If the proceedings authorizing or providing for such debt and the face of each obligation evidencing all or a part of such obligations provide that such obligations shall not constitute nor be deemed to constitute a general, limited, or moral obligation of the State of Hawaii, or any department, agency, or political subdivision thereof under any constitutional, statutory, or other construction; and the full faith and credit of neither the State of Hawaii nor any department, agency, or political subdivision thereof are pledged or shall be available for the payment of either the principal of or interest on such obligation. Such obligations shall provide that they are payable solely from the revenues and assets of the corporation pledged thereto.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

Note

1. **Edited** pursuant to HRS §23G-16.5.