

SENATE No. 136

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a student tuition recovery fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

SENATE No. 136

By Ms. Donoghue, a petition (accompanied by bill, Senate, No. 136) of Eileen M. Donoghue, Chris Walsh, Denise Provost, Michael O. Moore and other members of the General Court for legislation to establish a student tuition recovery fund. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act establishing a student tuition recovery fund.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 112 of the General Laws is hereby amended by inserting after section 263
2 thereof the following new section:-

3 Section 263A. (a) As used in this section, the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:

5 "Assessment," the amount a private occupational school is required to pay to the Student
6 Tuition Recovery Fund.

7 "Ceasing operations," a private occupational school stopping educational courses or
8 programs to the public for any reason.

9 "Division", the division of professional licensure established in section 8 of chapter 13.

10 "Fund," the Student Tuition Recovery Fund.

11 "Person injured," a student of a private occupational school, which charges prepaid
12 tuition to a student, who is damaged monetarily by the school's ceasing operations; failure to
13 fulfill its contractual obligations; or failure to comply with licensing requirements and provisions
14 pursuant to section 263 of chapter 112.

15 "Prepaid tuition," money advanced to an education institution before it provides its
16 service.

17 "Private occupational school," private educational organization as defined in section 263
18 of chapter 112.

19 "School," a private occupational school as defined in section 263 of chapter 112.

20 (b) There shall be a Student Tuition Recovery Fund established and administered by the
21 division. The purpose of the fund is to reimburse a student who is entitled to a refund of tuition
22 and fees because a private occupational school has ceased operations or has failed to (1) perform
23 faithfully an agreement or contract with the student; or (2) comply with licensing requirements
24 and provisions pursuant to section 263 of chapter 112. A student may recover from the fund an
25 amount not to exceed the actual damages sustained. The division shall adopt rules and
26 regulations necessary to administer this fund.

27 (c) Each private occupational school which collects prepaid tuition shall annually pay an
28 assessment to the division in an amount consistent with the following:

29 (1) An applicant school receiving initial approval shall make an initial payment of \$2,500
30 into the fund before a certificate of approval is issued.

31 (2) An approved school in operation shall make a payment into the fund accompanying
32 the school's license renewal in the amount of 0.25 percent of the school's total cost of tuition and
33 fees, beginning in the year that begins on January 1, 2016, and for each license renewal that
34 follows.

35 (3) The minimum amount of the annual payment into the fund is \$250, to be paid by a
36 school whether or not the school charges tuition.

37 (d) An accounting shall be made at the end of each year. If at the end of any year, the
38 accounting indicates that the fund contains \$2,000,000 or more, then during the next year an
39 assessment may not be made against the schools. If the moneys in the fund are insufficient to
40 satisfy duly authorized claims, the division may reassess the approved schools as necessary, in
41 addition to the annual assessment, and the approved schools shall pay the additional amounts
42 assessed.

43 (e) A person injured by a private occupational school is eligible to submit a claim against
44 the fund. A claim against the fund shall not be commenced later than one year after the private
45 occupational school has ceased operations. The person injured shall submit a complaint to the
46 division outlining the circumstances surrounding the claim. The division shall promptly
47 investigate the complaint. If the complaint and claim are valid, the division shall pay the claim in
48 the amount it considers reasonable. The money deposited in the fund shall be continuously
49 appropriated to the division to carry out the purposes of the fund. The division may use up to
50 three percent of the fund per year to administer the fund.

51 (f) The division may not issue a license to, and may revoke any certificate of approval
52 previously issued to, a school that fails to pay an assessment or reassessment to the fund.

53 (g) Unexpended and unencumbered money in the fund at the close of a fiscal year shall
54 not revert to the General Fund.