

# SENATE BILL 427

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By: **Senators Pinsky, Conway, Ferguson, Guzzone, Middleton, Raskin, and Young**  
Introduced and read first time: February 1, 2016  
Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Institutions of Postsecondary Education – Consumer**  
3 **Protection Provisions**

4 FOR the purpose of prohibiting certain private career schools from enrolling certain  
5 students in certain programs under certain circumstances; requiring the Maryland  
6 Higher Education Commission to create certain guaranty funds; specifying the uses  
7 of certain guaranty funds; including a certain occurrence as grounds for  
8 reimbursement of certain students from certain guaranty funds; requiring certain  
9 students to follow certain complaint procedures of certain institutions before making  
10 a claim to certain guaranty funds; authorizing certain students to make a certain  
11 claim to certain guaranty funds under certain circumstances; requiring a certain  
12 report to include certain information; requiring certain institutions of postsecondary  
13 education to ensure that a net price calculator is posted on its Web site in a certain  
14 location; requiring certain institutions to provide certain information to certain  
15 students under certain circumstances; and generally relating to consumer protection  
16 provisions that impact institutions of postsecondary education.

17 BY adding to  
18 Article – Commercial Law  
19 Section 13–320  
20 Annotated Code of Maryland  
21 (2013 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – Education  
24 Section 10–101(i) and (j)  
25 Annotated Code of Maryland  
26 (2014 Replacement Volume and 2015 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article – Education

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 Section 11–203(d) and (e) and 15–118  
2 Annotated Code of Maryland  
3 (2014 Replacement Volume and 2015 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
5 That the Laws of Maryland read as follows:

6 **Article – Commercial Law**

7 **13–320.**

8 **A PRIVATE CAREER SCHOOL, AS DEFINED UNDER § 10–101(J) OF THE**  
9 **EDUCATION ARTICLE, MAY NOT ENROLL A STUDENT IN A PROGRAM THAT IS**  
10 **INTENDED TO LEAD TO EMPLOYMENT IN A FIELD THAT REQUIRES LICENSURE IN THE**  
11 **STATE IF:**

12 **(1) SUCCESSFUL COMPLETION OF THE EDUCATIONAL COURSE**  
13 **OFFERINGS IN THE PROGRAM AT THE PRIVATE CAREER SCHOOL WILL NOT MEET**  
14 **THE STATE EDUCATIONAL REQUIREMENTS FOR LICENSURE;**

15 **(2) THE PRIVATE CAREER SCHOOL DOES NOT HOLD THE**  
16 **APPROPRIATE ACCREDITATION RECOGNIZED BY THE LICENSING ENTITY OF THE**  
17 **STATE; OR**

18 **(3) THE PRIVATE CAREER SCHOOL IS AWARE OF ANY OTHER**  
19 **CHARACTERISTICS OF THE STUDENT OR OF THE PROGRAM THAT WOULD LEAD TO**  
20 **THE INELIGIBILITY OF THE STUDENT TO SEEK OR OBTAIN LICENSURE IN THE STATE.**

21 **Article – Education**

22 10–101.

23 (i) (1) “Institution of postsecondary education” means a school or other  
24 institution that offers an educational program in the State for individuals who are at least  
25 16 years old and who have graduated from or left elementary or secondary school.

26 (2) “Institution of postsecondary education” does not include:

27 (i) Any adult education, evening high school, or high school  
28 equivalence program conducted by a public school system of the State; or

29 (ii) Any apprenticeship or on–the–job training program subject to  
30 approval by the Apprenticeship and Training Council.

(j) "Private career school" means a privately owned and privately operated institution of postsecondary education other than an institution of higher education that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations.

11-203.

(d) (1) By [rule and] regulation, the Commission [may]:

(I) SHALL create and provide for the operation of [three] TWO separate guaranty funds for:

[(i)] 1. For-profit institutions of higher education; AND

[(ii)] 2. Private career schools; and

[(iii)] (II) [Institutions] MAY CREATE AND PROVIDE FOR THE OPERATION OF A GUARANTY FUND FOR INSTITUTIONS of higher education that are required to register under § 11-202.2 of this subtitle.

(2) (i) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE private career school fund shall be used:

1. To [reimburse] PROVIDE A FULL REIMBURSEMENT TO any student at a private career school who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student, INCLUDING CLOSURE OF THE SCHOOL, or failed to comply with any provision of this article; or

2. For any other function directly related to the original purpose of the fund deemed appropriate by the Secretary.

(ii) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE for-profit institution of higher education fund shall be used to [reimburse] PROVIDE A FULL REIMBURSEMENT TO any student at a for-profit institution of higher education who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student, INCLUDING CLOSURE OF THE SCHOOL, or failed to comply with any provision of this article.

(iii) 1. The fund for institutions of higher education that are required to register under § 11-202.2 of this subtitle shall be used to reimburse any student at any of these institutions who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article.

1                   2.     A.     After 3 years of claims history during which no  
2 claim against the fund has been sustained on behalf of a Maryland student participating  
3 in a fully online distance education program offered in the State by an institution registered  
4 under § 11–202.2 of this subtitle, the Commission shall exempt that institution from the  
5 requirement to contribute to the fund.

6                   B.     Notwithstanding subsusubparagraph A of this  
7 subsusubparagraph, an institution shall be required to contribute to the fund following a  
8 claim against the fund being sustained on behalf of a Maryland student participating in a  
9 fully online distance education program offered in the State by the institution.

10                  3.     Notwithstanding subsusubparagraph 2 of this  
11 subparagraph, a student who takes courses from an institution exempted from contribution  
12 to the fund under subsusubparagraph 2 of this subparagraph may make a claim against the  
13 fund in accordance with subsusubparagraph 1 of this subparagraph.

14                  (iv)  1.     The funds shall be continuing, nonlapsing funds, not  
15 subject to § 7–302 of the State Finance and Procurement Article.

16                  2.     Any unspent portions of the funds may not be transferred  
17 or revert to the General Fund of the State, but shall remain in the funds to be used for the  
18 purposes specified in this subsection.

19                  3.     No other State money may be used to support the funds.

20                  (v)    The Commission shall be subrogated to and may enforce the  
21 claim of any student to the extent of any actual or authorized reimbursement from the  
22 funds.

23                  **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**  
24 **STUDENT SHALL FOLLOW THE COMPLAINT PROCESS OF THE INSTITUTION BEFORE**  
25 **MAKING A CLAIM TO A GUARANTY FUND ESTABLISHED UNDER THIS SECTION.**

26                  **(II) IF AN INSTITUTION DOES NOT RESPOND WITHIN 30 DAYS**  
27 **AFTER THE RECEIPT OF A COMPLAINT, THE STUDENT MAY MAKE A CLAIM TO A**  
28 **GUARANTY FUND ESTABLISHED UNDER THIS SECTION.**

29                  **[(3)] (4) (i)**    Each for–profit institution of higher education or private  
30 career school that is required to obtain a certificate of approval and, subject to paragraph  
31 **(2)(iii)2** of this subsection, each institution of higher education required to register under §  
32 11–202.2 of this subtitle shall pay an annual fee into the appropriate fund.

33                  (ii)    The Commission shall determine the amount of the fee based on  
34 the probable amount of money needed for the funds for each fiscal year. If the moneys in

1 the guaranty funds are insufficient to satisfy duly authorized claims, the participating  
2 institutions may be reassessed and shall pay the additional amounts required.

3 (iii) The Commission may not issue a certificate of approval or  
4 registration to, and shall revoke any certificate of approval or registration previously issued  
5 to, an institution that fails to pay any annual fee or reassessment.

6 (iv) The Commission shall deposit into the appropriate fund any  
7 penalty assessed against a for-profit institution of higher education, institution of higher  
8 education required to register under § 11-202.2 of this subtitle, or private career school,  
9 respectively, under the terms of § 11-204 of this subtitle.

10 **[(4)] (5)** (i) The funds shall be maintained by the State Comptroller  
11 who may deposit the assets of the funds in any manner that is consistent with the purposes  
12 of the funds.

13 (ii) All interest or other return on fund investments shall be credited  
14 to the funds.

15 **[(5)] (6)** The Commission, through the Attorney General, may enforce any  
16 claim to which the Commission has been subrogated under this subsection.

17 (e) On or before December 1 each year, the Commission shall report to the  
18 Governor and, in accordance with § 2-1246 of the State Government Article, the General  
19 Assembly, regarding:

20 (1) The number of claims made against each guaranty fund established  
21 under this section;

22 (2) The type, size, and program of the institutions against which the claims  
23 are made;

24 **(3) THE REASON FOR THE CLAIM, INCLUDING WHETHER THE PRIVATE**  
25 **CAREER SCHOOL OR FOR-PROFIT INSTITUTION OF HIGHER EDUCATION CLOSED**  
26 **AND, IF SO, WHETHER SOME STUDENTS WERE ABLE TO FINISH THEIR PROGRAM**  
27 **DESPITE THE CLOSURE AND, IF SO, HOW MANY;**

28 **[(3)] (4)** The number of claims that are approved and the associated  
29 payouts from the funds; and

30 **[(4)] (5)** The number of claims that are denied.

31 **[15-118.] 11-408.**

32 **[(a)** This section applies to a public senior higher education institution and a  
33 community college in the State.]

1           **(A) EACH INSTITUTION OF POSTSECONDARY EDUCATION THAT OPERATES**  
2 **IN THE STATE AND THAT IS REQUIRED TO MAKE A NET PRICE CALCULATOR**  
3 **PUBLICLY AVAILABLE ON ITS WEB SITE UNDER THE FEDERAL HIGHER EDUCATION**  
4 **OPPORTUNITY ACT OF 2008, 20 U.S.C.A. § 1015A, SHALL ENSURE THAT THE NET**  
5 **PRICE CALCULATOR IS POSTED ON ITS WEB SITE IN A CONSPICUOUS LOCATION.**

6           (b) (1) [Beginning in the 2014–2015 academic year, for] **FOR** all first–time,  
7 full–time undergraduate [freshmen, an institution of higher education] **STUDENTS AT AN**  
8 **INSTITUTION OF POSTSECONDARY EDUCATION THAT OPERATES IN THE STATE, THE**  
9 **INSTITUTION** shall provide to the student information on the cost of higher education at  
10 the institution by completing and mailing or providing electronically, at a minimum, the  
11 information contained on the form known as the Financial Aid Shopping Sheet, as  
12 promulgated by the U.S. Department of Education.

13           (2) The Financial Aid Shopping Sheet or the information contained on the  
14 Financial Aid Shopping Sheet shall be mailed or provided electronically to the student at  
15 the same time that an award of federal financial aid is mailed or provided electronically to  
16 the student.

17           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
18 **October 1, 2016.**