

SENATE BILL 551

By McNally

AN ACT to amend Tennessee Code Annotated, Title 3;
Title 49 and Title 56, relative to licensing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) As used in this section, unless the context otherwise requires:

() "Guarantee agency" means a guarantor of student loans that has an agreement with the United States secretary of education;

() "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry;

() "Licensing authority" means the department or any division, board, commission, committee, agency or other governmental entity under the authority of the department or attached to a division of the department that has been established by statute or regulation to oversee the issuance and regulation of any license; and

() "TSAC" means the Tennessee student assistance corporation.

(b) Upon receiving a copy of a final order as provided in subsection (c) from TSAC or a guarantee agency, each licensing authority shall suspend, deny or revoke the license of any person who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, as

amended, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(c)

(1) Each licensing authority shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (c)(2); and the licensing authority shall rescind any disciplinary action and restore any license upon receiving notice from TSAC or the guarantee agency that the debtor has agreed to serve the debtor's obligation or is in compliance with an approved repayment plan.

(2)

(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, deferment or forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (b), or the debtor has failed to enter into a payment plan, agreed to a service obligation or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the appropriate licensing authority to seek to suspend, deny or revoke the debtor's license. The notice shall:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license shall be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan or service obligation, or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency;

(c) Requests and qualifies for deferment, forbearance or other satisfactory compliance; or

(d) Requests a hearing before TSAC or the guarantee agency.

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether a determination of delinquency or default which could result in suspension, denial or revocation of the debtor's license is appropriate.

The debtor's license may not be suspended, denied or revoked until a determination is reached following the hearing. The issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor:

(a) Has entered into a payment plan or service obligation approved by TSAC or the guarantee agency;

(b) Is willing to enter into a payment plan or service obligation approved by TSAC or the guarantee agency; or

(c) Is willing to comply with a payment plan or service obligation previously entered into and approved by TSAC or the guarantee agency; and

(iv) Whether the debtor is eligible for deferment, forbearance or other satisfactory compliance.

(D) If a debtor, without good cause, fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license, and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor.

(E) The administrative hearings shall be conducted in accordance with rules and regulations adopted under the Uniform Administrative Procedures Act, Title 4, Chapter 5.

(F)

(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment

plan, entered into a service obligation, is otherwise in satisfactory compliance or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall enter an order requesting that the licensing authority terminate the order suspending, denying or revoking the license. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the license is reinstated, the licensing authority shall not impose a reinstatement fee that exceeds fifty dollars (\$50.00).

(ii) Entry of an order seeking to terminate suspension, denial or revocation of a license does not limit the ability of TSAC or the guarantee agency to issue a new order which seeks to suspend, deny or revoke the license of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Section 49-7-2126(a), is amended by adding the following language as a new, appropriately designated subdivision:

() A list of all student loans or loan or service-conditional scholarships that require a service obligation for forgiveness or repayment of all or part of the loan or service-conditional scholarship for which there is an outstanding balance owed by the applicant or for which the service obligation has not been completed by the applicant at the time of application;

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 7, Part 21, is amended by adding the following language as a new, appropriately designated section:

(a) As used in this section, unless the context otherwise requires;

() "Guarantee agency" means a guarantor of student loans that has an agreement with the United States secretary of education; and

() "TSAC" means the Tennessee student assistance corporation.

(b) Upon receiving a copy of a final order as provided in subsection (c) from TSAC or a guarantee agency, the secretary of state shall suspend, deny or revoke the registration of any athlete agent or applicant who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, as amended, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(c)

(1) The secretary of state shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (c)(2); and the secretary of state shall rescind any disciplinary action and restore any registration upon receiving notice from TSAC or the guarantee agency that the

debtor has agreed to serve the debtor's obligation or is in compliance with an approved repayment plan.

(2)

(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, deferment or forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (b), or the debtor has failed to enter into a payment plan, agreed to a service obligation or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the secretary of state to seek to suspend, deny or revoke the debtor's registration. The notice shall:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's registration shall be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan, service obligation or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency;

(c) Requests and qualifies for deferment, forbearance or other satisfactory compliance; or

(d) Requests a hearing before TSAC or the guarantee agency.

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether determination of delinquency or default which could result in suspension, denial or revocation of the debtor's registration. The debtor's registration may not be suspended, denied or revoked until a determination is reached following the hearing. The issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor:

(a) Has entered into a payment plan or service obligation approved by TSAC or the guarantee agency;

(b) Is willing to enter into a payment plan or service obligation approved by TSAC or the guarantee agency; or

(c) Is willing to comply with a payment plan or service obligation previously entered into and approved by TSAC or the guarantee agency; and

(iv) Whether the debtor is eligible for deferment, forbearance or other satisfactory compliance.

(D) If a debtor, without good cause, fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation and further requesting the secretary of state to order the debtor to refrain from engaging in athlete agent activities. TSAC or the guarantee agency shall send a copy of the order to the secretary of state and the debtor.

(E) The administrative hearings shall be conducted in accordance with rules and regulations adopted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(F)

(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan, entered into a service obligation, is otherwise in satisfactory compliance or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall enter an order requesting that the secretary of state terminate the order suspending, denying or revoking the registration. TSAC or the guarantee agency shall send a copy of the order to the secretary of state and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the

registration is reinstated, the secretary of state shall not impose a reinstatement fee that exceeds fifty dollars (\$50.00).

(ii) Entry of an order seeking to terminate suspension, denial or revocation of a registration does not limit the ability of TSAC or the guarantee agency to issue a new order which seeks to suspend, deny or revoke the registration of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The secretary of state is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. Tennessee Code Annotated, Title 3, Chapter 6, Part 3, is amended by adding the following language as a new, appropriately designated section:

(a) As used in this section, unless the context otherwise requires;

() "Commission" means the Tennessee ethics commission or other governmental body authorized by statute to register lobbyists;

() "Guarantee agency" means a guarantor of student loans that has an agreement with the United States secretary of education; and

() "TSAC" means the Tennessee student assistance corporation.

(b) Upon receiving a copy of a final order as provided in subsection (c) from TSAC or a guarantee agency, the commission shall suspend, deny or revoke the

registration of any individual lobbyist who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, as amended, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(c)

(1) The commission shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (c)(2); and the commission shall rescind any disciplinary action and restore any registration upon receiving notice from TSAC or the guarantee agency that the individual has agreed to serve the individual's obligation or is in compliance with an approved repayment plan.

(2)

(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, deferment or forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (b), or the debtor has failed to enter into a payment plan, agreed to a service obligation or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the appropriate licensing authority to seek to suspend, deny or revoke the debtor's registration. The notice shall:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's registration shall be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan, service obligation or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency;

(c) Requests and qualifies for deferment, forbearance or other satisfactory compliance; or

(d) Requests a hearing before TSAC or the guarantee agency.

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether a determination of delinquency or default which could result in suspension, denial or revocation of the debtor's registration is appropriate. The debtor's registration may not be suspended, denied or revoked until a determination is reached following the hearing. The issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default; and

(iii) Whether the debtor:

(a) Has entered into a payment plan or service obligation approved by TSAC or the guarantee agency;

(b) Is willing to enter into a payment plan or service obligation approved by TSAC or the guarantee agency;

(c) Is willing to comply with a payment plan or service obligation previously entered into and approved by TSAC or the guarantee agency; or

(iv) Whether the debtor is eligible for deferment, forbearance or other satisfactory compliance.

(D) If a debtor, without good cause, fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's registration, and further requesting the commission to order the debtor to refrain from engaging in lobbying. TSAC or the guarantee agency shall send a copy of the order to the commission and the debtor.

(E) The administrative hearings shall be conducted in accordance with rules and regulations adopted under the Uniform Administrative Procedures Act, compiled title 4, chapter 5.

(F)

(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment

plan, entered into a service obligation, is otherwise in satisfactory compliance or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall enter an order requesting that the commission terminate the order suspending, denying or revoking the registration. TSAC or the guarantee agency shall send a copy of the order to the commission and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the registration is reinstated, the commission shall not impose a reinstatement fee that exceeds fifty dollars (\$50.00).

(ii) Entry of an order seeking to terminate suspension, denial or revocation of a registration does not limit the ability of TSAC or the guarantee agency to issue a new order which seeks to suspend, deny or revoke the registration of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The commission is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. Tennessee Code Annotated, Section 49-5-108(d)(2), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(2) The state board of education shall establish guidelines, through the promulgation of rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to suspend, deny or revoke the license or certificate of a teacher who is delinquent or in default on a repayment or service obligation under a guaranteed student loan or if such teacher has failed to enter into a payment plan or comply with a payment plan or service obligation previously approved by TSAC or a guarantee agency. This subdivision (d)(2) shall apply to any federal family education loan program, the federal Higher Education Act of 1965, as amended, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

SECTION 6. In addition to the authority to promulgate the rules and regulations to effectuate other provisions of this act relative to determinations of delinquency or default for student loans, the Tennessee student assistance corporation is authorized to promulgate necessary rules and regulations to determine whether any lawyer who is licensed by the Tennessee Supreme Court, or any person who is licensed in any other profession, trade, occupation, business or industry licensed by any agency in Tennessee is delinquent or in default on any service obligation or repayment under any federal family education loan program, the Federal Higher Education Act of 1965, as amended, a student loan guaranteed or administered by TSAC or any other state or federal educational loan or service-conditional scholarship program. Such rules and regulations shall provide for notice and a hearing to determine the amount of the debt, whether the debt is delinquent or in default on any repayment or service obligation, whether the debtor has entered into a payment plan or service obligation approved by the guarantee agency, is willing to enter into a payment plan or service obligation plan approved by TSAC or the guarantee agency or is eligible for deferment or forbearance. TSAC shall notify the Supreme Court or the licensing agency, if the debtor is delinquent or in

default, or if the debtor, without good cause, fails to respond to the notice of intent to file an order seeking the suspension, denial or revocation of the debtor's license, fails to timely request a hearing, or fails to appear at a scheduled hearing. The rules and regulations shall also provide that when TSAC determines that a debt or service obligation has been satisfied in full that TSAC shall notify the Supreme Court or licensing agency that the debtor is no longer delinquent or in default.

SECTION 7. For the purposes of promulgation of the rules and regulations, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2012, the public welfare requiring it.