

No. 1981-130

AN ACT

SB 814

Amending the act of August 7, 1963 (P.L.549, No.290), entitled, as amended, "An act creating the Pennsylvania Higher Education Assistance Agency; defining its powers and duties; conferring powers and imposing duties on the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, Superintendent of Public Instruction and the Department of Auditor General; and making appropriations," further providing for loan servicing and adding limited subpoena powers in the investigation of fraud or breach of fiduciary obligation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clauses (1.1) and (10) of section 4, act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act, clause (1.1) added December 30, 1974 (P.L.1111, No.357) and clause (10) added December 21, 1977 (P.L.338, No.99), are amended to read:

Section 4. Powers and Duties.—In furtherance of the purposes set forth in this act, the board of directors shall have the following powers:

* * *

(1.1) As a public corporation and body politic subject to examination by the Auditor General of the Commonwealth, the agency shall be deemed an "eligible lender" as defined in Part B of Title IV of the Federal Higher Education Act of 1965 and pursuant to the provisions of the act be entitled to all the authority, rights and privileges of an "eligible lender." Such authority, rights and privileges shall include but not be limited to the following:

(i) To do whatever is necessary to enable students with whom the agency makes an insured loan to qualify for Federal interest subsidy and special allowance.

(ii) To charge premiums for insurance on loans.

(iii) To enter into contracts with schools, lenders [and], corporations, the Student Loan Marketing Association [and], other agencies of the Commonwealth, other states and the Federal Government to service student loans. *Any such contract of the agency to service student loans shall not be subject to the provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-To-Know Law. For purposes of this clause, contract shall include schedules or exhibits relating to pricing or schedules relating to equipment, time charges, service charges or other charges pertinent to an agency contract to service student loans. Any citizen of the Commonwealth of Pennsylvania who desires to examine, inspect or copy any such contract shall apply to the Attorney General. Upon receipt of any such application, the Attorney General*

shall cause a review of the contract to determine if the disclosure of the contents of the contract could cause a loss of revenue to any Commonwealth fund or to the agency. If the Attorney General determines that it is unlikely that a loss of revenue to any Commonwealth fund or the agency could occur, the Attorney General may grant the application and order the agency to permit the citizen to examine, inspect or copy the contract. Otherwise, the Attorney General shall deny the application. The Attorney General shall also have the power to determine that portions of the contract may be examined, inspected or copied and other portions may not. The agency may adopt and enforce reasonable rules, subject to the approval of the Attorney General, governing the examination, inspection or copying of any such contracts. The Attorney General shall make a determination for any application within thirty days of receipt thereof.

(iv) To purchase stocks, securities, and obligations issued by the Student Loan Marketing Association.

* * *

(10) To establish an investigation unit which shall have the power and duty to:

(i) investigate alleged violations of all criminal statutes related to fraud or a breach of fiduciary obligation committed by any person who has obtained or attempted to obtain, or aids, assists, or abets in obtaining or attempting to obtain, scholarship awards, educational assistance grants, loans or loan guarantees or other moneys from the agency; **[and]**

(ii) work in conjunction with the appropriate prosecuting authorities in the prosecution of cases where it is determined that evidence of criminal activity exists. In the enforcement of criminal statutes *or investigations* related to fraud or a breach of fiduciary obligation under this clause, the staff of the investigation unit shall have the powers of law enforcement officers; *and*

(iii) *present to the board of directors of the agency, evidence of probable violations of criminal statutes related to fraud or a breach of fiduciary obligation and request the board to issue an order of subpoena duces tecum to obtain original documents submitted by individuals for the purpose of obtaining loans or loan guarantees or other moneys from the agency. The board of directors shall have the power to issue a subpoena duces tecum for such purposes under the hand of its chairman upon a majority vote of its membership of a finding that a probable violation of such criminal statutes has occurred.*

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Section 2. This act shall take effect immediately.

APPROVED—The 25th day of November, A. D. 1981.

DICK THORNBURGH