

1 HB321
2 156353-1
3 By Representative Poole
4 RFD: Education Policy
5 First Read: 21-JAN-14

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8 SYNOPSIS: This bill would provide further for the
9 participation of the state in reciprocity
10 agreements whereby colleges and universities of
11 member states are allowed to operate, without
12 additional state approval or authorization, in
13 other member states.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Sections 10A-1-7.02 and 16-46-3, Code of
20 Alabama 1975, relating to foreign nonprofit entities offering
21 online programs of instruction; to provide further for the
22 participation of the state in reciprocity agreements whereby
23 colleges and universities of member states are allowed to
24 operate, without additional state approval or authorization,
25 in other member states.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 10A-1-7.02 and 16-46-3 of the
2 Code of Alabama 1975, are amended to read as follows:

3 "§10A-1-7.02.

4 "(a) A foreign entity not described by Section
5 10A-1-7.01(a) may transact business in this state without
6 registering under this chapter.

7 "(b) Subsection (a) does not relieve a foreign
8 entity from the duty to comply with applicable requirements
9 under other law to file or register.

10 "(c) A foreign entity is not required to register
11 under this chapter if other law of this state or of federal
12 law authorizes the entity to transact the particular business
13 authorized by law in this state.

14 "(d) A foreign unincorporated nonprofit association
15 is not required to register under this chapter.

16 "(e) A foreign entity which is exempt from the
17 requirements of Chapter 46, Title 16, is not required to
18 register under this chapter.

19 "§16-46-3.

20 "(a) This chapter shall not apply to any of the
21 following schools nor to any person in regard to the operation
22 of such schools, except for the conditions stated in this
23 section:

24 "(1) Schools operated on a nonprofit basis offering
25 only courses or programs of study which do not lead to an
26 associate or baccalaureate degree and are limited in nature to

1 the performance of or preparation for the ministry of any
2 established church, denomination, or religion.

3 "(2) Courses conducted by employers exclusively for
4 their employees and courses conducted by labor unions
5 exclusively for their members.

6 "(3) Schools offering instruction in grades K-12,
7 including the kindergarten, elementary, or secondary level and
8 operated by a parochial, denominational, or religious
9 organization, and/or as a ministry of a local church or group
10 of churches on a nonprofit basis.

11 "(4) Schools offering instruction in grades K-12,
12 including the kindergarten, elementary, or secondary level,
13 and operated by a community, educational organization, or
14 group of parents, organized as a nonprofit educational
15 corporation with the expectation of establishing a more
16 favorable environment for those in attendance.

17 "(5) Schools, colleges, and universities principally
18 operated and supported by the State of Alabama or its
19 political subdivisions.

20 "(6) Seminars and short courses sponsored or offered
21 by professional business, trade, or religious organizations
22 primarily for benefit of members thereof, or similar public
23 programs of training where the majority of the students have
24 at least half of their tuition and enrollment fees paid by
25 their employers, provided that evidence is supplied supporting
26 this exemption continuously over the preceding five years.

1 "(7) Any private school conducting resident courses
2 whose principal base of operation is within the State of
3 Alabama which has been in continuous operation for 20 years or
4 more as of July 1, 2004, and that held accreditation as of
5 that date by an accrediting agency recognized by the United
6 States Department of Education.

7 "(8) Programs of study regulated by other state
8 public boards, commissions, or agencies requiring school
9 licensure or performance bonding, or both, except where the
10 appropriate regulatory agency requires a license under this
11 chapter.

12 "(9) Any private postsecondary institution
13 conducting resident courses that has been in operation within
14 Alabama for at least five years as of July 1, 2004, and that
15 is accredited by an accrediting agency recognized by the
16 United States Department of Education shall be accorded the
17 following provisions: Upon proof of such accreditation, such
18 schools shall be issued a license and representative permits
19 after required fees are paid to the Alabama Department of
20 Postsecondary Education. The requisite accreditation shall
21 satisfy the minimum standards of this chapter.

22 "(10) Any out of state nonprofit entity that offers
23 online programs of instruction, is approved by a regional
24 accreditation authority, and is located in a state
25 participating in a regional authorization reciprocity
26 agreement approved by the Governor. For purposes of this
27 subdivision, a for-profit school that converts to or otherwise

1 becomes a nonprofit school is also required to have the
2 approval of the State Board of Education in order to qualify
3 for the exemption provided by this subdivision, unless the
4 request for exemption is made more than 10 years after the
5 date the school converted from a for-profit school to a
6 nonprofit school.

7 "(b) Any private school exempted in this section
8 shall retain the exempted status as long as the conditions of
9 exemption remain valid. An accredited private school or
10 program of study not elsewhere exempted whose accreditation is
11 withdrawn, suspended, or revoked shall forfeit its exemption
12 status until the grant of accreditation is restored. Due
13 process of the accrediting agency shall be allowed prior to
14 withdrawal of an exemption. Schools having accreditation
15 withheld as a result of transfer of ownership shall be allowed
16 a period of time to regain the grant in accordance with the
17 appropriate accrediting agency regulations.

18 "(c) An exemption pursuant to this section shall not
19 be construed to constitute approval or endorsement by the
20 State of Alabama for any purpose.

21 "(d) Exempted private schools may voluntarily
22 request to be licensed without surety as described in Sections
23 16-46-5 and 16-46-6.

24 "(e) Private schools which cease operations shall
25 place the student academic, attendance, and financial aid
26 records in the office of the appropriate school administrator
27 where a repository shall exist to safeguard and to make

1 available these records to authorized persons upon request as
2 follows:

3 "(1) Schools which merge, consolidate, or undergo
4 change of ownership shall deposit with the continuing school.

5 "(2) Schools which are a part of a system,
6 organization, franchise, or a ministry of a local church or a
7 group of churches shall deposit with the administrative office
8 thereof if such is to remain in operation.

9 "(3) Elementary and secondary schools without system
10 support shall deposit with the superintendent of the public
11 county or city within whose district the school is located.

12 "(4) Postsecondary, higher, and others not elsewhere
13 designated shall deposit with the Alabama Department of
14 Postsecondary Education."

15 Section 2. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.