



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Under Act 2023-560 of the 2023 Regular Session, the Distressed Institutions of Higher Education Revolving Loan Program was established under the State Treasurer to provide loans to certain eligible institutions experiencing financial hardship that could lead to closure of the institution.

This bill would define the purpose of the program, change the administrator of the program to the Alabama Commission on Higher Education, more specifically define eligible institutions to which loans shall be made, and establish certain terms and conditions of loans to eligible institutions.

A BILL
TO BE ENTITLED
AN ACT

Relating to education; to amend Sections 1 through 6 of Act 2023-560 of the 2023 Regular Session, now appearing as Sections 16-65A-1 through 16-65A-6, Code of Alabama 1975, as the Distressed Institutions of Higher Education Revolving Loan Program; to state the purpose of the program; to change the administrator of the program to the Alabama Commission on



29 Higher Education; to more specifically define eligible
30 institutions to which loans shall be made; and to establish
31 certain terms and conditions of loans to eligible
32 institutions.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Sections 1 through 6 of Act 2023-560 of the
35 2023 Regular Session, now appearing as Sections 16-65A-1
36 through 16-65A-6, Code of Alabama 1975, are amended to read as
37 follows:

38 "§16-65A-1

39 There is created the Distressed Institutions of Higher
40 Education Revolving Loan Program to be administered by the
41 ~~State Treasurer~~Executive Director of the Alabama Commission on
42 Higher Education.

43 "§16-65A-2

44 (a) The term "eligible institution" as used in this
45 section shall mean any public or private college or university
46 in Alabama, including any state-related college or university,
47 that meets all of the following criteria:

48 (1) Has been operating for more than 50 years in
49 Alabama.

50 (2) Has a significant impact on the community in which
51 it is located.

52 (3) Is experiencing financial hardship that could lead
53 to closure of the institution.

54 (4) Whose governing body has adopted a resolution
55 authorizing the application for a loan from this program to
56 maintain operations as it replenishes its endowment through



57 private gifts.

58 (5) Has assets sufficient to pledge as collateral to
59 secure the amount of the requested loan. Collateral shall be
60 deemed sufficient if a college or university provides an
61 opinion letter from a bank that is not a current creditor of
62 the college or university making application and that is
63 registered to do business in the State of Alabama and is
64 regulated by the State Banking Department which states that
65 the collateral offered by the college or university is
66 sufficient to secure the requested amount of the loan.

67 (b) An eligible institution seeking a loan from this
68 program shall make application on forms prescribed by the
69 ~~State Treasurer~~ Executive Director of the Alabama Commission on
70 Higher Education. The institution shall certify that it meets
71 all criteria provided by this section.

72 (c) The ~~State Treasurer~~ Executive Director of the
73 Alabama Commission on Higher Education shall review all
74 applications for loans and shall make a careful and thorough
75 investigation of the ability of each applicant to repay a loan
76 under the program. Any institution applying for a loan shall
77 provide any information requested by the ~~State~~
78 ~~Treasurer~~ Executive Director of the Alabama Commission on
79 Higher Education relevant to the determination of ability to
80 repay. Before awarding a loan to any applicant, the
81 ~~Treasurer~~ Executive Director of the Alabama Commission on
82 Higher Education shall require the applicant to submit a
83 written financial restructuring plan documenting the
84 applicant's ability to repay the loan. The restructuring plan



85 shall include specific facts demonstrating the applicant's
86 ability to repay the loan as determined by the bank that is
87 approving the restructuring plan.

88 (d) Any loan made pursuant to this program shall
89 require the recipient to pay interest at the published rate
90 for the State Revolving Loan Fund at the time the loan is
91 made. Any loan made pursuant to this program shall be paid
92 back within 20 years. Any loan made pursuant to this program
93 must be secured by a first perfected security interest in all
94 assets pledged as collateral for the loan.

95 ~~(d) The State Treasurer may establish the terms and~~
96 ~~conditions of any loan made pursuant to this program,~~
97 ~~including: the amount of private funds committed prior to loan~~
98 ~~funds being drawn; the timing and amounts of disbursements;~~
99 ~~and the terms of repayment. Any loan made pursuant to this~~
100 ~~program shall require the recipient to pay interest. Any loan~~
101 ~~made pursuant to this program shall be secured by a first~~
102 ~~perfected security interest in all collateral assets.~~

103 (e) The ~~State Treasurer may~~Executive Director of the
104 Alabama Commission on Higher Education may award a loan to any
105 eligible institution that meets the requirements provided in
106 this section upon approval of the loan within 30 days of the
107 date the institution submits its application and shall be
108 responsible for the administration of the loan, subject to
109 this section. The 30-day period to reach a decision on the
110 approval of a loan may not be extended for any reason. Once a
111 loan is approved, funds shall be transferred to the applicant
112 within a reasonable period of time. In administering a loan,



113 the ~~Treasurer~~Executive Director of the Alabama Commission on
114 Higher Education shall release funds to the recipient only
115 pursuant to a written financial restructuring plan, submitted
116 by the recipient to the ~~Treasurer~~Executive Director of the
117 Alabama Commission on Higher Education, that includes specific
118 steps the recipient must take to achieve financial soundness
119 and specific benchmarks the recipient ~~must~~intends to meet to
120 receive loan funds.

121 (f) As a condition of approval by the ~~State Treasurer~~
122 Executive Director of the Alabama Commission on Higher
123 Education of a loan under the program, each applicant shall
124 enter into a written contract with the ~~State~~
125 ~~Treasurer~~Executive Director of the Alabama Commission on
126 Higher Education. Breach of contract by the recipient shall
127 make the recipient immediately liable for the unpaid balance
128 of the loan.

129 (g) The ~~State Treasurer~~Executive Director of the
130 Alabama Commission on Higher Education shall forward copies of
131 executed loan contracts to the Chairs of the Senate Finance
132 and Taxation-Education Committee and the House Ways and
133 Means-Education Committee, the Finance Director, and the
134 Legislative Fiscal Officer.

135 "§16-65A-3

136 Annually, on or before the first day of December, the
137 ~~State Treasurer~~Executive Director of the Alabama Commission on
138 Higher Education shall file a report regarding the operation
139 of the program, including all loans issued and the status of
140 any repayments, to the Governor, Lieutenant Governor, Speaker



141 of the House of Representatives, President Pro Tempore of the
142 Senate, the minority leaders of the Alabama Senate and House
143 of Representatives, the Chairs of the Senate Committee on
144 Finance and Taxation-Education and the House Ways and
145 Means-Education Committee, the Legislative Fiscal Officer, and
146 the Finance Director.

147 "§16-65A-4

148 The Distressed Institutions of Higher Education Loan
149 Program Fund is created in the State Treasury to receive
150 appropriations from the Legislature for the funding of loans
151 and to be administered by the ~~State Treasurer~~Executive
152 Director of the Alabama Commission on Higher Education, as
153 provide by this section. Proceeds from loan repayments shall
154 be deposited into this fund and may be used in the same manner
155 as any other funds provided for this program. Any monies
156 remaining in the fund, including any interest earned or any
157 contributions from other sources, at the end of a fiscal year
158 shall not revert but shall remain in the fund and are
159 reappropriated for the purposes authorized by this section.
160 Any monies appropriated into the fund pursuant to Act 2023-560
161 that remain in the fund on the effective date of this act,
162 shall be reallocated to the Alabama Commission on Higher
163 Education for the purposes authorized by this section. The
164 expenses of making and administering loans, including legal,
165 consultant, and administrative expenses, shall be payable from
166 the fund.

167 "§16-65A-5

168 The Attorney General, upon request of the ~~State~~



169 ~~Treasurer~~ Executive Director of the Alabama Commission on
170 Higher Education, shall institute proceedings in the name of
171 the state for the purpose of recovering any amount due the
172 state under this section. All proceedings involving default or
173 dispute of the contract shall be brought in the appropriate
174 court of jurisdiction in Montgomery County, Alabama.

175 "§16-65A-6

176 In addition to the powers granted by any other
177 provision of this chapter, the ~~State Treasurer~~ Executive
178 Director of the Alabama Commission on Higher Education shall
179 have the powers necessary and convenient to carry out the
180 purposes and provisions of this chapter, including the power
181 to enter into and execute contracts, agreements, and other
182 instruments."

183 Section 2. This act shall become effective immediately.

184