

§11407. Authorization for Governor to request organizations to acquire loan notes

To the extent and for the purposes contemplated by the federal Internal Revenue Code of 1954, Section 103(e), as amended, and successor provisions thereto, including without limitation the federal Internal Revenue Code of 1986, Section 150(d), as amended, the Governor may on behalf of the State request the organization of one or more nonprofit corporations to operate exclusively for the purpose of acquiring student loan notes incurred under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Title IV, Part B, as amended. The Governor may request on behalf of the State that one or more state agencies acquire student loan notes incurred under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Title IV, Part B, as amended. [PL 2003, c. 112, §4 (AMD).]

1. Origination of loans. Any entity acquiring student loan notes may not originate federally guaranteed loans, except as authorized in chapter 417-F. The entity may not discriminate against any financial institution or credit union authorized to do business in this State or any other entity with respect to the acquisition of loans. The entity shall adopt policies regarding conflict of interest. [PL 2009, c. 83, §1 (AMD).]

2. Loan guarantee. All education loan notes incurred under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are acquired with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1, provided that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function. [PL 2003, c. 112, §4 (AMD).]

3. Board of directors. The board of directors of a nonprofit corporation formed under this section consists of 7 members. Four members representing the public with full voting rights must be appointed by the Governor, subject to review and approval by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and confirmation by the Legislature. The terms of the initial members must be staggered: 2 members must be appointed to 2-year terms and 2 members must be appointed to 3-year terms. On the expiration of a term of any member, a successor must be appointed to a 3-year term. A member serves until a successor is appointed and qualified. A member is eligible for reappointment. If a member is appointed to fill a vacancy in an unexpired term, that member may serve only for the remainder of that term until a successor is appointed. An officer, director or employee of a nonprofit corporation formed under this section may not at the same time serve as an officer, director or employee of the Finance Authority of Maine, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 or of any entity that has a contract to provide a significant level of administrative services to a nonprofit corporation formed under this section or to the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1. [PL 2015, c. 170, §7 (AMD); PL 2015, c. 170, §30 (AFF).]

4. Public meetings and records. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the books and records of a nonprofit corporation formed under this section are public records and the meetings of such a corporation are public proceedings within the meaning of Title 1, chapter 13, subchapter 1. [PL 2003, c. 112, §4 (AMD).]

5. Use of competitive bidding. An entity designated under this section may enter into contracts for loan administration, loan servicing and other substantial operating contracts related to loan purchase activities through an open competitive bidding process in accordance with this subsection. The entity shall adopt rules requiring that loan administration or servicing contracts may not be entered into without prior public notice and opportunity for interested persons to make proposals, and the entity may not adopt the rules until after providing public notice and opportunity for public comment on the proposed rules. In adopting those rules, the entity shall consider to the extent possible the rules and procedures with respect to the competitive bidding process set forth in Title 5, chapter 155, subchapter 1-A. Any loan administration or servicing contract must be approved by the board after review of the contract and an accompanying fairness opinion prepared by an independent 3rd party.
[PL 2003, c. 112, §4 (AMD).]

6. Annual report. An entity designated under this section shall report annually on its activities during the previous fiscal year to the joint standing committees of the Legislature having jurisdiction over business and economic development matters, appropriations matters and education matters. The report must include a listing of the current directors and officers; a summary of the purchases of loans in the secondary market during the previous fiscal year; a listing of the institutions from which loans were purchased during the previous fiscal year; and a complete financial statement of the entity's operations related to loan purchases during the previous fiscal year, including a breakdown of income and costs, the administrative and operating costs, the assets and liabilities, the total excess revenues over expenditures for the previous fiscal year and the total accumulation of these revenues, the total income derived from investments during the previous fiscal year, the disposition and use of excess revenues, the proceeds from investments and the geographic distribution and distribution between institutions of higher learning of its student loans among residents of this State. The report must demonstrate that all revenues, including reserves, that are acquired with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds are being used in a manner consistent with the public purpose for which the bonds are issued. The report must include similar information on all affiliated entities and must be provided annually in writing to the joint standing committees of the Legislature having jurisdiction over business and economic development matters, appropriations matters and education matters by December 1st. An entity designated under this section shall also file copies of the entity's Internal Revenue Code forms and returns with the Attorney General and the joint standing committee of the Legislature having jurisdiction over business and economic development matters.
[PL 2003, c. 112, §4 (AMD).]

SECTION HISTORY

PL 1983, c. 399, §2 (NEW). PL 1989, c. 698, §13 (RPR). PL 1989, c. 812, §3 (AMD). PL 1999, c. 443, §5 (AMD). PL 1999, c. 728, §11 (AMD). PL 1999, c. 728, §§20,21 (AFF). PL 2003, c. 112, §4 (AMD). PL 2009, c. 83, §1 (AMD). PL 2015, c. 170, §7 (AMD). PL 2015, c. 170, §30 (AFF).

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