

SENATE BILL 91

F2

0lr0089

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Higher Education Commission)**

Requested: October 22, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 5, 2010

CHAPTER _____

1 AN ACT concerning

2 **Maryland Higher Education Commission – Exempt Institutions**

3 FOR the purpose of prohibiting a person from making a certain statement concerning
4 the status of an institution that is allowed to operate without a certificate of
5 approval from the Maryland Higher Education Commission; prohibiting a
6 person from enrolling a student in an institution that is allowed to operate
7 without a certain certificate of approval unless certain requirements are met;
8 establishing certain penalties for certain violations; and generally relating to
9 institutions that are exempt from the requirement to obtain a certificate of
10 approval from the Maryland Higher Education Commission.

11 BY repealing and reenacting, with amendments,
12 Article – Education
13 Section 11–202
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2009 Supplement)

16 BY adding to
17 Article – Education
18 Section 11–202.1
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Education**

4 11–202.

5 (a) Except as provided in [subsection (c) of this section] **§ 11–202.1 OF THIS**
6 **SUBTITLE**, an institution of postsecondary education may not commence or continue
7 to operate, do business, or function without a certificate of approval from the
8 Commission.

9 (b) The Commission shall issue a certificate of approval to an institution of
10 postsecondary education if it finds that:

11 (1) The facilities, conditions of entrance and scholarship, and
12 educational qualifications and standards are adequate and appropriate for:

13 (i) The purposes of the institution; and

14 (ii) The programs, training, and courses to be offered by the
15 institution; and

16 (2) The proposed programs to be offered by the institution meet the
17 educational needs of the State.

18 [(c) Subject to the requirements imposed by subsection (d) of this section, the
19 following institutions of postsecondary education may operate without a certificate of
20 approval from the Commission:

21 (1) A nonpublic institution of higher education operating under a
22 charter granted by the General Assembly;

23 (2) A religious degree–granting institution which certifies, in
24 accordance with procedures established by the Commission, that it:

25 (i) Is founded and operated by a church or organization of
26 churches as an integral part of the religious ministry of that church or organization;

27 (ii) Offers sectarian instruction only designed for and aimed at
28 persons who hold or seek to learn particular religious faiths or beliefs of churches or
29 religious organizations, and provides only educational programs for religious
30 vocations; and

31 (iii) States on the diploma or degree the religious nature of the
32 degree; and

1 (3) A church or other religious institution offering a postsecondary
2 instructional program leading to a diploma or certificate only if designed for and
3 aimed at persons who hold or seek to learn the particular religious faith or beliefs of
4 that church or religious organization, and providing only educational programs for
5 religious purposes.

6 (d) (1) (i) Each institution of postsecondary education authorized to
7 operate without a certificate of approval under subsection (c)(2) or (3) of this section
8 shall submit, every 2 years, a financial statement compiled by an independent
9 accountant employed by the institution to the Commission.

10 (ii) These institutions of postsecondary education may not
11 commence or continue to operate, do business, or function unless the Commission
12 determines on the basis of the financial statement submitted by the institution under
13 this section that the institution possesses adequate financial resources to support its
14 educational program.

15 (2) (i) The Commission shall adopt regulations establishing
16 procedures and standards for the submission and evaluation of the reports and
17 financial statements submitted by institutions of postsecondary education under this
18 subsection.

19 (ii) Any institution under subsection (c)(2) or (3) of this section
20 denied the right to operate has the right to judicial review as provided by the
21 Administrative Procedure Act.

22 (e) Nothing in this section precludes an institution of postsecondary
23 education authorized under subsection (c)(2) or (3) of this section to operate without a
24 certificate of approval from seeking certification from the Commission.]

25 **[(f)] (C)** (1) If the Commission believes that an institution of
26 postsecondary education that applies for a certificate of approval does not meet the
27 conditions or standards necessary for the issuance of the certificate, the Commission
28 shall give the institution written notice of the specific deficiencies.

29 (2) Within 20 days of receipt of a notice of deficiencies, the institution
30 may request a hearing before the Commission, and within 60 days of receipt of the
31 request the Commission shall hold a hearing to determine if the certificate of approval
32 should be issued.

33 (3) If, within 6 months from the date on which the application for
34 certification was submitted to the Commission, the institution has received neither a
35 certificate of approval under subsection (b) of this section nor written notice of
36 deficiencies under this subsection, the institution may request within 20 days a
37 hearing before the Commission to determine if the certificate of approval should be
38 issued.

1 ~~[(g)]~~ **(D)** (1) Any institution of postsecondary education that is denied a
2 certificate of approval by the Commission after a hearing granted under subsection
3 ~~[(f)]~~ **(C)** of this section has the right to judicial review provided by Title 10, Subtitle 2
4 of the State Government Article.

5 (2) The decision of the Commission shall be presumed correct, and the
6 institution has the burden of proving otherwise.

7 (3) The Commission shall be a party to the proceeding.

8 **11-202.1.**

9 **(A) A NONPUBLIC INSTITUTION OF HIGHER EDUCATION OPERATING**
10 **UNDER A CHARTER GRANTED BY THE GENERAL ASSEMBLY MAY OPERATE**
11 **WITHOUT A CERTIFICATE OF APPROVAL FROM THE COMMISSION.**

12 **(B) SUBJECT TO THE REQUIREMENTS IMPOSED BY SUBSECTION (C) OF**
13 **THIS SECTION, THE FOLLOWING INSTITUTIONS OF POSTSECONDARY EDUCATION**
14 **MAY OPERATE WITHOUT A CERTIFICATE OF APPROVAL FROM THE COMMISSION:**

15 **(1) A RELIGIOUS EDUCATIONAL INSTITUTION THAT CERTIFIES, IN**
16 **ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE COMMISSION, THAT**
17 **THE INSTITUTION:**

18 **(I) IS FOUNDED AND OPERATED BY A CHURCH OR OTHER**
19 **RELIGIOUS INSTITUTION OR ORGANIZATION OF CHURCHES OR RELIGIOUS**
20 **INSTITUTIONS AS AN INTEGRAL PART OF THE RELIGIOUS MINISTRY OF THAT**
21 **INSTITUTION OR ORGANIZATION;**

22 **(II) OFFERS SECTARIAN INSTRUCTION ONLY DESIGNED FOR**
23 **AND AIMED AT PERSONS WHO HOLD OR SEEK TO LEARN PARTICULAR**
24 **RELIGIOUS FAITHS OR BELIEFS OF RELIGIOUS INSTITUTIONS OR RELIGIOUS**
25 **ORGANIZATIONS, AND PROVIDES ONLY EDUCATIONAL PROGRAMS FOR**
26 **RELIGIOUS VOCATIONS; AND**

27 **(III) STATES ON THE CERTIFICATE OR DIPLOMA THE**
28 **RELIGIOUS NATURE OF THE AWARD; AND**

29 **(2) A CHURCH OR OTHER RELIGIOUS INSTITUTION OFFERING A**
30 **POSTSECONDARY INSTRUCTIONAL PROGRAM LEADING TO A CERTIFICATE OR**
31 **DIPLOMA ONLY IF DESIGNED FOR AND AIMED AT PERSONS WHO HOLD OR SEEK**
32 **TO LEARN THE PARTICULAR RELIGIOUS FAITH OR BELIEFS OF THAT CHURCH**
33 **OR RELIGIOUS INSTITUTION, AND PROVIDING ONLY EDUCATIONAL PROGRAMS**
34 **FOR RELIGIOUS PURPOSES.**

1 **(C) (1) EACH INSTITUTION AUTHORIZED TO OPERATE WITHOUT A**
2 **CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION:**

3 **(I) SHALL SUBMIT TO THE COMMISSION, EVERY 2 YEARS, A**
4 **FINANCIAL STATEMENT REVIEWED BY AN INDEPENDENT ACCOUNTANT**
5 **RETAINED BY THE INSTITUTION; AND**

6 **(II) MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO**
7 **BUSINESS, OR FUNCTION UNLESS THE COMMISSION DETERMINES ON THE BASIS**
8 **OF THE FINANCIAL STATEMENT SUBMITTED BY THE INSTITUTION THAT THE**
9 **INSTITUTION POSSESSES ADEQUATE FINANCIAL RESOURCES TO SUPPORT THE**
10 **INSTITUTION'S EDUCATIONAL PROGRAM.**

11 **(2) THE COMMISSION SHALL ADOPT REGULATIONS**
12 **ESTABLISHING PROCEDURES AND STANDARDS FOR THE SUBMISSION AND**
13 **EVALUATION OF THE REPORTS AND FINANCIAL STATEMENTS SUBMITTED BY**
14 **INSTITUTIONS UNDER THIS SUBSECTION.**

15 **(D) ANY INSTITUTION UNDER SUBSECTION (B) OF THIS SECTION THAT**
16 **IS DENIED THE RIGHT TO OPERATE HAS THE RIGHT TO JUDICIAL REVIEW AS**
17 **PROVIDED BY THE ADMINISTRATIVE PROCEDURE ACT.**

18 **(E) NOTHING IN THIS SECTION PRECLUDES AN INSTITUTION**
19 **OPERATING WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF**
20 **THIS SECTION FROM SEEKING A CERTIFICATE OF APPROVAL FROM THE**
21 **COMMISSION.**

22 **(F) WITH REGARD TO AN INSTITUTION OPERATING WITHOUT A**
23 **CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION, A**
24 **PERSON MAY NOT:**

25 **(1) MAKE A STATEMENT, WHETHER VERBAL OR WRITTEN, THAT**
26 **THE INSTITUTION IS APPROVED BY, OR HAS A CERTIFICATE OF APPROVAL**
27 **FROM, THE COMMISSION, INCLUDING A STATEMENT ON ANY CERTIFICATE,**
28 **DIPLOMA, ACADEMIC TRANSCRIPT, OR OTHER DOCUMENT ISSUED BY THE**
29 **INSTITUTION OR IN ANY ADVERTISEMENT OR PUBLICATION, OR ON A WEBSITE;**
30 **OR**

31 **(2) ENROLL A STUDENT IN THE INSTITUTION UNLESS, BEFORE**
32 **ENROLLMENT, THE PERSON GIVES WRITTEN NOTICE TO AND OBTAINS A**
33 **WRITTEN ACKNOWLEDGMENT FROM THE STUDENT THAT:**

1 **(I) THE INSTITUTION’S INSTRUCTIONAL PROGRAM IS ONLY**
2 **DESIGNED FOR AND AIMED AT PERSONS WHO HOLD OR SEEK TO LEARN THE**
3 **PARTICULAR RELIGIOUS FAITH OR BELIEFS OF THE CHURCH OR RELIGIOUS**
4 **INSTITUTION, AND PROVIDES ONLY EDUCATIONAL PROGRAMS FOR RELIGIOUS**
5 **VOCATIONS OR PURPOSES;**

6 **(II) AN INSTITUTION OF HIGHER EDUCATION IS NOT**
7 **REQUIRED TO ACCEPT FOR TRANSFER CREDITS EARNED AT THE INSTITUTION;**

8 **(III) AN INSTITUTION OF HIGHER EDUCATION IS NOT**
9 **REQUIRED TO RECOGNIZE AN AWARD EARNED AT THE INSTITUTION; AND**

10 **(IV) A POTENTIAL EMPLOYER MAY DETERMINE THAT AN**
11 **AWARD EARNED AT THE INSTITUTION DOES NOT MEET MINIMUM EDUCATIONAL**
12 **REQUIREMENTS FOR EMPLOYMENT.**

13 **(G) THE WRITTEN ACKNOWLEDGMENT OBTAINED FROM A STUDENT**
14 **UNDER SUBSECTION (F) OF THIS SECTION SHALL BE:**

15 **(1) IN A FORM APPROVED BY THE COMMISSION;**

16 **(2) SIGNED BY BOTH THE STUDENT AND A REPRESENTATIVE OF**
17 **THE INSTITUTION; AND**

18 **(3) PERMANENTLY RETAINED IN THE STUDENT’S FILE BY THE**
19 **INSTITUTION.**

20 **(H) A PERSON WHO VIOLATES SUBSECTION (F) OR (G) OF THIS SECTION**
21 **IS LIABLE FOR A PENALTY OF UP TO \$5,000 FOR EACH VIOLATION.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.