

ASSEMBLY, No. 6077

STATE OF NEW JERSEY 218th LEGISLATURE

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Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Prohibits academic degree-granting institutions from entering into revenue sharing arrangements with financial institutions for consumer financial products or services and regulates consumer financial products or services marketed to students.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain contractual agreements between
2 academic degree-granting institutions and financial institutions
3 and supplementing chapter 3C of Title 18A of the New Jersey
4 Statutes.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. As used in this act:

10 “Academic degree-granting institution” means an institution of
11 higher education or a proprietary school which has been authorized
12 to offer licensed degree programs.

13 “Affiliated” means an association between an academic degree-
14 granting institution and a consumer financial product or service
15 resulting from:

16 (1) the use of the name, emblem, mascot, or logo of the
17 institution in respect to a consumer financial product or service;

18 (2) the use of some other word, picture, or symbol, which is
19 readily identifiable with the academic degree-granting institution, in
20 the marketing of the consumer financial product or service in any
21 way that implies that the academic degree-granting institution
22 endorses the consumer financial product or service; or

23 (3) the academic degree-granting institution communicating
24 information directly to its students regarding a consumer financial
25 product or service and how students may access the consumer
26 financial product or service.

27 “Financial institution” means a bank, savings association, credit
28 union, or any other entity that directly or indirectly holds, provides,
29 or issues a financial account or any other consumer financial
30 product or service to a student of an academic degree-granting
31 institution.

32 “Revenue sharing arrangement” means an arrangement between
33 an academic degree-granting institution and a financial institution
34 under which:

35 (1) the financial institution provides or issues a consumer
36 financial product or service to students attending the academic
37 degree-granting institution;

38 (2) the academic degree-granting institution recommends,
39 promotes, sponsors, or otherwise endorses the financial institution
40 or a consumer financial product or service offered by the financial
41 institution; and

42 (3) the financial institution pays a fee or provides other material
43 benefits, including revenue or profit sharing, to the academic
44 degree-granting institution in connection with a consumer financial
45 product or service provided to students of the academic institution.

- 1 2. a. An academic degree-granting institution shall not enter
2 into any revenue sharing arrangement with a financial institution to
3 offer an affiliated consumer financial product or service.
- 4 b. Nothing in this act shall be construed to deem an association
5 between an academic degree-granting institution and a consumer
6 financial product or service to be affiliated if such association is
7 solely based on an advertisement by a financial institution that is
8 delivered to a wide and general audience consisting of more than
9 enrolled students at the academic degree-granting institution.
- 10 c. Nothing in this act shall be construed to deem an
11 arrangement between an academic degree-granting institution and a
12 financial institution to be a revenue sharing arrangement if the
13 arrangement is based solely on a financial institution paying a fair
14 market price to an academic degree-granting institution for the
15 academic institution to advertise or market the financial institution
16 to the general public.
- 17
- 18 3. The terms and conditions of a consumer financial product or
19 service offered, provided, issued, recommended, promoted,
20 sponsored, or otherwise endorsed by an academic degree-granting
21 institution pursuant to a contractual agreement between the
22 institution and a financial institution shall not be inconsistent with
23 the best financial interests of the students accessing or using the
24 consumer financial product or service. An academic degree-
25 granting institution shall ensure that the terms and conditions of the
26 consumer financial product or service are not inconsistent with the
27 best financial interests of students by:
 - 28 a. documenting that it conducts reasonable due diligence
29 reviews at least every two years to ascertain whether the fees
30 assessed by the consumer financial product or service under the
31 contractual agreement are, considered as a whole, at or below
32 prevailing market rates;
 - 33 b. making provision in the contractual agreement for
34 termination of the agreement based on complaints received from
35 students or a determination by the academic degree-granting
36 institution that the fees assessed by the consumer financial product
37 or service under the agreement are not at or below prevailing
38 market rates;
 - 39 c. ensuring that the consumer financial product or service does
40 not charge overdraft fees or other nonsufficient funds fees; and
 - 41 d. ensuring that a student's consent to access and use a
42 consumer financial product or service has been obtained before
43 providing, or permitting a financial institution to provide, any
44 personally identifiable information about the student, other than
45 directory information, to the financial institution or its agents.
- 46
- 47 4. a. An academic degree-granting institution that enters into
48 a contractual agreement with a financial institution to offer,

1 provide, issue, recommend, promote, sponsor, or otherwise endorse
2 a consumer financial product or service to students shall post
3 conspicuously on its Internet website the contractual agreement in
4 its entirety, except any portions that, if disclosed, would
5 compromise personal privacy, proprietary information technology,
6 or the security of information technology or of physical facilities.

7 The academic degree-granting institution shall submit the
8 contractual agreement and an accompanying summary of the
9 contract provisions to the Office of the Secretary of Higher
10 Education to be posted on the office's Internet website. The
11 accompanying summary shall describe the terms and conditions of
12 the contractual agreement and include information on the number of
13 students who accessed and used the consumer financial product or
14 service pursuant to the contractual agreement at any time during the
15 year and the mean and median costs incurred by those students.

16 b. The Office of the Secretary of Higher Education shall
17 annually submit to the Governor, and to the Legislature pursuant to
18 section 2 of P.L.1991, c.164 (C.52:14-19.1), a report describing the
19 terms and conditions of the contractual agreements submitted
20 pursuant to subsection a. of this section, the number of students
21 who accessed and used the consumer financial product or service
22 pursuant to the contractual agreement at any time during the year,
23 and the mean and median costs incurred by those students.

24
25 5. The Secretary of Higher Education, in consultation with the
26 Commissioner of Banking and Insurance, shall adopt rules and
27 regulations pursuant to the "Administrative Procedure Act,"
28 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the
29 provisions of this act.

30
31 6. This act shall take effect on the 30th day following the date
32 of enactment.

33 34 35 STATEMENT

36
37 This bill would prohibit institutions of higher education and
38 proprietary institutions authorized to offer licensed degree programs
39 from entering into revenue sharing arrangements with financial
40 institutions for consumer financial products or services, which are
41 affiliated with the academic institution.

42 Under the bill, an academic institution is prohibited from
43 entering into revenue sharing arrangements under which: the
44 financial institution provides or issues a consumer financial product
45 or service to students; the academic institution recommends,
46 promotes, sponsors, or otherwise endorses the financial institution
47 or its products or services; and the financial institution pays a fee or
48 provides other material benefits to the academic institution in

1 connection with the consumer financial products or services
2 provided to students. The bill does not consider consumer financial
3 products or services to be affiliated if the association with an
4 academic institution is based solely on a financial institution
5 advertising its products to a wide and general audience. It also does
6 not prohibit arrangements based solely on the financial institution
7 paying a fair market price to an academic degree-granting
8 institution for the academic institution to advertise or market the
9 financial institution to the general public.

10 The bill also requires an academic degree-granting institution to
11 ensure that the terms and conditions of a consumer financial
12 product or service offered, provided, issued, recommended,
13 promoted, sponsored, or otherwise endorsed pursuant to a
14 contractual agreement between the institution and a financial
15 institution are not inconsistent with the best financial interests of
16 the students using the consumer financial products or services.
17 Under the bill, an academic degree-granting institution is required
18 to take certain steps to ensure that the consumer financial products
19 or services are not inconsistent with the best financial interests of
20 students. These provisions of the bill are modeled on similar
21 language contained in the 2015 federal Department of Education
22 regulations, often referred to as “cash management regulations.”

23 The bill requires an academic institution to post on its Internet
24 website the contracts it enters into with financial institutions and to
25 submit the contracts to the Office of the Secretary of Higher
26 Education (OSHE) to be posted on OSHE’s Internet website.

27 This bill is in response to national reports, which found that
28 certain agreements between colleges and banks can expose students
29 to aggressive marketing tactics, high or unusual fees, and restricted
30 choices for managing their money. A 2018 U.S. Consumer
31 Financial Protection Bureau review of such agreements found that,
32 under contracts in which banks pay colleges to promote the banks’
33 financial products and accounts, students typically pay more in fees.
34 It is the view of the sponsor that these arrangements lead to
35 increased debt burdens for many students. In prohibiting revenue
36 sharing arrangements and requiring the contracts to be publicly
37 posted, this bill is intended to increase transparency and promote
38 college affordability.