

SENATE, No. 804

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

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

Introduced Pending Technical Review by Legislative Counsel.



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.

46
47 2. a. An academic degree-granting institution shall not enter
48 into any revenue sharing arrangement with a financial institution to

1 offer an affiliated consumer financial product or service.

2 b. Nothing in this act shall be construed to deem an association
3 between an academic degree-granting institution and a consumer
4 financial product or service to be affiliated if such association is
5 solely based on an advertisement by a financial institution that is
6 delivered to a wide and general audience consisting of more than
7 enrolled students at the academic degree-granting institution.

8 c. Nothing in this act shall be construed to deem an arrangement
9 between an academic degree-granting institution and a financial
10 institution to be a revenue sharing arrangement if the arrangement is
11 based solely on a financial institution paying a fair market price to
12 an academic degree-granting institution for the academic institution
13 to advertise or market the financial institution to the general public.
14

15 3. The terms and conditions of a consumer financial product or
16 service offered, provided, issued, recommended, promoted,
17 sponsored, or otherwise endorsed by an academic degree-granting
18 institution pursuant to a contractual agreement between the
19 institution and a financial institution shall not be inconsistent with
20 the best financial interests of the students accessing or using the
21 consumer financial product or service. An academic degree-
22 granting institution shall ensure that the terms and conditions of the
23 consumer financial product or service are not inconsistent with the
24 best financial interests of students by:

25 a. documenting that it conducts reasonable due diligence
26 reviews at least every two years to ascertain whether the fees
27 assessed by the consumer financial product or service under the
28 contractual agreement are, considered as a whole, at or below
29 prevailing market rates;

30 b. making provision in the contractual agreement for termination
31 of the agreement based on complaints received from students or a
32 determination by the academic degree-granting institution that the
33 fees assessed by the consumer financial product or service under the
34 agreement are not at or below prevailing market rates;

35 c. ensuring that the consumer financial product or service does
36 not charge overdraft fees or other nonsufficient funds fees; and

37 d. ensuring that a student's consent to access and use a
38 consumer financial product or service has been obtained before
39 providing, or permitting a financial institution to provide, any
40 personally identifiable information about the student, other than
41 directory information, to the financial institution or its agents.
42

43 4. a. An academic degree-granting institution that enters into a
44 contractual agreement with a financial institution to offer, provide,
45 issue, recommend, promote, sponsor, or otherwise endorse a
46 consumer financial product or service to students shall post
47 conspicuously on its Internet website the contractual agreement in
48 its entirety, except any portions that, if disclosed, would

1 compromise personal privacy, proprietary information technology,
2 or the security of information technology or of physical facilities.

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

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

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

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

STATEMENT

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

Under the bill, an academic institution is prohibited from entering into revenue sharing arrangements under which: the financial institution provides or issues a consumer financial product or service to students; the academic institution recommends, promotes, sponsors, or otherwise endorses the financial institution or its products or services; and the financial institution pays a fee or provides other material benefits to the academic institution in connection with the consumer financial products or services provided to students. The bill does not consider consumer financial products or services to be affiliated if the association with an academic institution is based solely on a financial institution

1 advertising its products to a wide and general audience. It also does
2 not prohibit arrangements based solely on the financial institution
3 paying a fair market price to an academic degree-granting
4 institution for the academic institution to advertise or market the
5 financial institution to the general public.

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

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

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