



LAWS OF ALASKA

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Chapter No.

AN ACT

Relating to the Alaska Commission on Postsecondary Education; relating to the Alaska Student Loan Corporation; relating to bonds of the corporation; relating to loan and grant programs of the commission; relating to an exemption from the State Procurement Code regarding certain contracts of the commission or corporation; making conforming changes; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the Alaska Commission on Postsecondary Education; relating to the Alaska
2 Student Loan Corporation; relating to bonds of the corporation; relating to loan and grant
3 programs of the commission; relating to an exemption from the State Procurement Code
4 regarding certain contracts of the commission or corporation; making conforming changes;
5 and providing for an effective date.

6 _____
7 * **Section 1.** AS 14.42.030(e) is amended to read:

8 (e) The commission may

9 (1) adopt regulations under AS 44.62 (Administrative Procedure Act)

10 to

11 (A) carry out the purposes of

12 (i) AS 14.43.091 - 14.43.750, 14.43.990, AS 14.44, and

13 AS 14.48; and

(ii) AS 14.43.910 and 14.43.920 as they relate to the purposes of AS 14.43.091 - 14.43.750, 14.43.990, AS 14.44, and AS 14.48; [AND]

(B) ensure compliance with the requirements imposed by state and federal statutes and regulations governing the guaranty, insurance, purchase, or other dealings in eligible loans by federal agencies, instrumentalities, or corporations; **and**

(C) establish standards for the

(i) administration of hearings conducted under AS 14.43.153; and

(ii) administrative enforcement of collection orders under AS 14.43.151 - 14.43.155;

(2) delegate to the executive director of the commission or a subcommittee of the commission any duty imposed on or power granted to the commission by this chapter, AS 14.43, AS 14.44, or AS 14.48, except its power to adopt regulations and its duty to consider appeals under AS 14.43.100(b) and AS 14.48.120;

(3) establish task forces, committees, or subcommittees, not necessarily consisting of commission members, to advise and assist the commission in carrying out its functions;

(4) contract with or use existing institutions of postsecondary education or other individuals or organizations to make studies, conduct surveys, submit recommendations, or otherwise contribute to the work of the commission;

(5) establish fees for the review of an out-of-state institution that

(A) requests approval for participation in the programs under AS 14.43.091 - 14.43.750, 14.43.990, and AS 14.44; and

(B) is not accredited by a national or regional accreditation association recognized by the Council for Higher Education Accreditation; and

(6) collect all fees and costs incurred in collection of the amount owed on a loan or repayment obligation if the loan or repayment obligation becomes delinquent or in default; in this paragraph, fees and costs include attorney fees, court

1 costs, and collection fees charged by a collection agency.

2 * **Sec. 2.** AS 14.42.210(a) is amended to read:

3 (a) The education loan fund is established in the corporation. The education
4 loan fund is a trust fund to be used to carry out the purposes of AS 14.42.100 -
5 14.42.990, AS 14.43.091 - 14.43.175, **14.43.400 - 14.43.420,** 14.43.600 - 14.43.700,
6 14.43.710 - 14.43.750, 14.43.990, and AS 14.44.025. The fund consists of money or
7 assets appropriated or transferred to the corporation for the fund and money or assets
8 deposited in it by the corporation. The corporation may establish separate accounts in
9 the fund.

10 * **Sec. 3.** AS 14.42.210(b) is amended to read:

11 (b) Money and other assets of the education loan fund may be used to

12 (1) secure bonds of the corporation;

13 (2) pay the costs of administration of the fund;

14 (3) invest in education loans and investments under AS 37.10.071;

15 (4) finance programs approved under AS 14.43.091 - 14.43.175,
16 **14.43.400 - 14.43.420,** 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, or
17 AS 14.44.040; and

18 (5) pay the costs of administering and collecting the loans and
19 repayment obligations under the financial aid programs listed in (4) of this subsection.

20 * **Sec. 4.** AS 14.42.220(a) is amended to read:

21 (a) **The** [SUBJECT TO (f) OF THIS SECTION, THE] corporation may
22 borrow money and may issue bonds, on which the principal and interest are payable
23 from its income and receipts or other assets or a designated part or parts of them. **The**
24 **corporation may use the proceeds of its bonds for any purposes that the**
25 **corporation considers appropriate, including providing money to**

26 **(1) make or purchase education loans;**

27 **(2) finance programs identified in AS 14.42.210;**

28 **(3) finance projects of the state as those projects may be identified**
29 **by law; and**

30 **(4) pay for any other purpose or program of the corporation that**
31 **is authorized in AS 14.42.100 - 14.42.310.**

1 * **Sec. 5.** AS 14.42.220 is amended by adding a new subsection to read:

2 (g) The corporation may not issue bonds to finance projects under (a)(3) of
3 this section in an aggregate amount that exceeds \$280,000,000.

4 * **Sec. 6.** AS 14.43.120(u) is amended to read:

5 (u) The corporation [COMMISSION] by regulation shall set a loan
6 origination fee, not to exceed five percent of the total education loan amount, to be
7 assessed upon an education loan that is funded from the education loan fund of the
8 corporation [ALASKA STUDENT LOAN CORPORATION]. The loan origination
9 fee shall be deducted by the commission at the time the loan is disbursed. The
10 [SUBJECT TO APPROPRIATION, THE] loan origination fees shall be deposited into
11 an origination fee account within the education loan fund of the corporation
12 [ALASKA STUDENT LOAN CORPORATION], and subsequently used by the
13 corporation to offset losses incurred as a result of death, disability, default, or
14 bankruptcy of the borrower.

15 * **Sec. 7.** AS 14.43.122(a) is amended to read:

16 (a) The commission may offer

17 (1) a borrower who has received more than one education loan
18 [UNDER AS 14.43.091 - 14.43.160] the option of consolidating the multiple loans
19 into a single loan; or

20 (2) to consolidate education loans made [UNDER AS 14.43.091 -
21 14.43.160] to married borrowers if the married borrowers agree to be jointly and
22 severally liable for repayment of the consolidated loan, regardless of the borrowers'
23 future marital status or the death of one of the borrowers.

24 * **Sec. 8.** AS 14.43.145(a) is amended to read:

25 (a) For the purposes of this chapter, a loan is in default after a loan payment
26 has become 180 or more days past due or, for a loan under AS 14.43.161 - 14.43.168
27 or 14.43.170 - 14.43.175, the default requirements established by the commission have
28 been met. Upon default,

29 (1) repayment of the remaining balance is accelerated and due;

30 (2) the commission may take the borrower's permanent fund dividend
31 under AS 43.23.067;

1 (3) the commission may issue an order to withhold and deliver under
2 AS 14.43.147;

3 (4) the commission may provide notice of the default to a licensing
4 entity for nonrenewal of the license under AS 14.43.148; [AND]

5 (5) the commission may record the lien created under AS 14.43.149;
6 **and**

7 **(6) the commission may establish an administrative collection**
8 **order under AS 14.43.151 - 14.43.155.**

9 * **Sec. 9.** AS 14.43 is amended by adding new sections to read:

10 **Sec. 14.43.151. Authority and procedure to administratively establish and**
11 **enforce a collection order.** If a judgment in favor of the commission has not been
12 entered by the court regarding a defaulted loan awarded under this chapter, the
13 commission may establish a duty to repay the defaulted loan through a collection order
14 using the procedures prescribed in AS 14.43.152 - 14.43.155 and may enforce the
15 collection order. Action under this section may be undertaken at the commission's
16 discretion if the borrower is in default under AS 14.43.145.

17 **Sec. 14.43.152. Initiation of administrative action to establish a collection**
18 **order; required notice.** (a) An action to establish a collection order authorized under
19 AS 14.43.151 is initiated by the commission's serving on the borrower a notice of
20 establishment of collection order. The notice shall be served by mailing the notice to
21 the borrower at

22 (1) the borrower's most recent address provided to the commission by
23 the borrower; or

24 (2) another address known to the commission.

25 (b) The notice served under (a) of this section must state

26 (1) the amount of the liability for default under AS 14.43.145 for
27 which the borrower is found to be responsible; the amount stated under this paragraph
28 shall include all principal, interest, and collection fees;

29 (2) that a lien may be recorded against the borrower's property as
30 authorized under AS 14.43.145(a)(5);

31 (3) that the borrower may appear at a hearing held by the commission

1 and show cause that a collection order should not be entered because, at the time of the
2 notice,

3 (A) no loan payment was more than 180 days past due or, for a
4 loan under AS 14.43.161 - 14.43.168 or 14.43.170 - 14.43.175, the default
5 requirements established by the commission had not yet been met; or

6 (B) the borrower had entered into, or was in compliance with,
7 an agreement to forbear default with the commission; and

8 (4) that, if the borrower served with the notice does not request a
9 hearing within 30 days after the date of mailing of the notice, a collection order will be
10 entered and the property of the borrower will be subject to a lien under AS 14.43.149
11 in the amount stated in the collection order without further notice or hearing.

12 **Sec. 14.43.153. Hearings in administrative action to establish a collection**
13 **order; burden of proof.** (a) A borrower served with a notice of establishment of
14 collection order under AS 14.43.152 is entitled to a hearing before the commission if
15 the request for a hearing is served on the commission by registered mail, return receipt
16 requested, within 30 days after the date the notice is mailed to the borrower.

17 (b) If a request for a hearing in accordance with (a) of this section is made, the
18 issuance of a collection order is automatically stayed pending the decision of the
19 hearing officer for the commission. If a request for a hearing is not made, the
20 collection order is final at the expiration of the 30-day period specified in (a) of this
21 section.

22 (c) A borrower claiming that the notice is incorrect has the burden at hearing
23 to document the existence of one of the conditions described in AS 14.43.152(b)(3)(A)
24 and (B).

25 (d) Within 60 days after the date of the hearing, the hearing officer shall enter
26 a decision determining whether default has occurred and, if default has occurred,
27 specifying the amount of the collection order and declaring that the property of the
28 borrower is subject to a lien under AS 14.43.149 in the amount of the collection order.

29 (e) If the borrower who requested the hearing fails to appear at the hearing, the
30 hearing officer shall enter a decision

31 (1) confirming that a default has occurred;

1 (2) confirming the amount of the collection order;
2 (3) declaring that the property of the borrower is subject to a lien under
3 AS 14.43.149 in the amount stated under (2) of this subsection.

4 (f) The decision of the hearing officer is a final decision that may be appealed
5 to the superior court under the Alaska Rules of Appellate Procedure.

6 **Sec. 14.43.154. Collection orders as judgments.** A collection order is
7 equivalent to a judgment and becomes vested

8 (1) at the expiration of the 30-day period described in AS 14.43.153(b)
9 if a hearing is not requested; or

10 (2) on the date the hearing officer enters a decision in favor of the
11 commission if a hearing was requested by the borrower.

12 **Sec. 14.43.155. Nature of remedies.** AS 14.43.154 provides a remedy in
13 addition to and not as a substitute for any other remedies available to the commission.

14 * **Sec. 10.** AS 14.43.161 is amended to read:

15 **Sec. 14.43.161. Purpose; creation.** There is established the AlaskAdvantage
16 [ALASKA ADVANTAGE] loan program to provide postsecondary educational
17 financial assistance through the federal guaranteed student loan program. The
18 AlaskAdvantage [ALASKA ADVANTAGE] loan program is the primary source for
19 financial aid to eligible borrowers under this chapter.

20 * **Sec. 11.** AS 14.43.166 is amended to read:

21 **Sec. 14.43.166. Repayment of loans.** A borrower's obligation to commence
22 repayment of the principal and interest on a loan under AS 14.43.161 - 14.43.166 and
23 14.43.168 [AS 14.43.161 - 14.43.168] begins six months after the borrower's
24 completion or other termination of the postsecondary education program. The
25 commission may accelerate the repayment of any loan made in error or in reliance
26 upon a false statement made by the borrower. The commission shall determine the
27 period over which loans are repaid; however, the maximum period of repayment of
28 loans may not exceed the maximum period permitted under applicable provisions of
29 the federal guaranteed student loan program.

30 * **Sec. 12.** AS 14.43.168(b) is amended to read:

31 (b) The provisions of AS 14.43.145 - 14.43.155 [AS 14.43.145 - 14.43.150]

1 apply to loans under AS 14.43.161 - 14.43.168 that are in default.

2 * **Sec. 13.** AS 14.43.170 is amended to read:

3 **Sec. 14.43.170. Creation; purpose.** There is created the Alaska supplemental
4 education loan program to provide postsecondary educational supplemental financial
5 assistance. Supplemental financial assistance is available only if the financial aid
6 available through the **AlaskAdvantage** [ALASKA ADVANTAGE] loan program is
7 insufficient to cover the costs of attendance at a postsecondary institution or if the
8 borrower does not qualify for financial aid under the federal guaranteed student loan
9 program. The commission shall make the public aware of the Alaska supplemental
10 education loan program to facilitate providing loans to as many eligible borrowers as
11 possible.

12 * **Sec. 14.** AS 14.43.171 is amended to read:

13 **Sec. 14.43.171. Applicability of other laws.** The provisions of
14 AS 14.43.120(d)(4), **14.43.122**, 14.43.135, 14.43.140, 14.43.145 - 14.43.160,
15 14.43.164, **14.43.166, and 14.43.168** [AND 14.43.166 - 14.43.168] apply to the loans
16 made under AS 14.43.170 - 14.43.175 as if the loans were made under those
17 applicable provisions.

18 * **Sec. 15.** AS 14.43.172(c) is amended to read:

19 (c) In addition to the provisions of (a) of this section, a borrower is eligible for
20 a loan under AS 14.43.170 - 14.43.175 if the borrower

21 (1) is not delinquent **in payment** [ON AND HAS NEVER BEEN IN
22 DEFAULT] on a loan previously awarded by the commission;

23 (2) at the time of application or loan disbursement, does not have a
24 past due child support obligation established by court order or by the child support
25 enforcement division under AS 25.27.160 - 25.27.220;

26 (3) has not, within the previous five years, had a loan discharged or
27 written off by the commission for any reason;

28 (4) does not have a status, at the time of application for a loan or
29 disbursement of loan money, that would prevent the borrower from repaying the loan
30 as it becomes due;

31 (5) has not, within the previous five years, defaulted on another loan

made to the borrower by a lending entity unless the borrower can show good faith efforts to repay the loan and extraordinary circumstances that led to the default; [AND]

(6) does not have a credit history, at the time of application for a loan, that demonstrates chronic inability or unwillingness to pay an extension of credit or loan as it becomes due; and [.]

(7) has [AS] complied with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the person.

* **Sec. 16.** AS 14.43.172(d) is amended to read:

(d) The commission may not make a loan to a borrower who has been in default on a loan previously awarded by the commission unless [IF

(1)] the previously awarded loan has been paid in full [; AND

(2) ANOTHER INDIVIDUAL WHO SATISFIES THE REQUIREMENTS OF (c) OF THIS SECTION COSIGNS THE LOAN].

* **Sec. 17.** AS 14.43.300(a) is amended to read:

(a) An education loan to a recipient under AS 14.43.250(b)(1) - (4) or (6) may not exceed \$2,500 a school year for an undergraduate student or \$5,000 a school year for a graduate student [, EXCLUSIVE OF LOAN GUARANTEE FEES UNDER (g) OF THIS SECTION,] and may not be made to a student for more than six years. An education loan to a recipient under AS 14.43.250(b)(5) may not exceed the cost of tuition and required fees, [LOAN GUARANTEE FEES UNDER (g) OF THIS SECTION,] books and educational supplies, room and board, and transportation for two round trips between the recipient's home and school each year. A loan under AS 14.43.250(b)(5) may not be made for more than five years of undergraduate study, five years of graduate study, or a combined maximum of eight years of study.

* **Sec. 18.** AS 14.43.400 is amended to read:

Sec. 14.43.400. Purpose; creation. There is created [ESTABLISHED] the AlaskAdvantage education [ALASKA STATE EDUCATIONAL INCENTIVE] grant program to provide financial assistance to eligible students to enable them to attend, or continue their attendance at, postsecondary educational institutions. Funds

1 **designated by the corporation or** appropriated for this program **may** [SHALL] be
2 used as matching funds for the state's participation in the federal [STATE STUDENT
3 INCENTIVE] grant program **under 20 U.S.C. 1070c - 1070c-4** [(P.L. 92-318; 20
4 U.S.C. 1070c - 1070c-3)].

5 * **Sec. 19.** AS 14.43.405(a) is repealed and reenacted to read:

6 (a) The AlaskaAdvantage education grant program created under AS 14.43.400
7 - 14.43.420 shall be administered by the executive director of the commission.

8 * **Sec. 20.** AS 14.43 is amended by adding a new section to read:

9 **Sec. 14.43.406. Applicability of other laws.** (a) To the extent they are not in
10 conflict with the provisions of AS 14.43.400 - 14.43.420, the provisions of
11 AS 14.43.162(b), 14.43.910, and 14.43.920 apply to a grant made under AS 14.43.400
12 - 14.43.420.

13 (b) In determining a student's eligibility for a grant under AS 14.43.400 -
14 14.43.420, the executive director of the commission shall apply the standards
15 contained in the definitions of "full-time student," "half-time student," and "school
16 year" in AS 14.43.160 as if those provisions were applicable to application for the
17 grant.

18 * **Sec. 21.** AS 14.43.410 is amended to read:

19 **Sec. 14.43.410. Distribution of funds.** The funds [APPROPRIATED] for the
20 **AlaskaAdvantage education** [EDUCATIONAL INCENTIVE] grant program **may**
21 [SHALL] be allocated to eligible students in accordance with the provisions of the
22 federal [STATE STUDENT INCENTIVE] grant program **under 20 U.S.C. 1070c -**
23 **1070c-4** and regulations adopted under AS 14.43.105 and 14.43.405.

24 * **Sec. 22.** AS 14.43.410 is amended by adding a new subsection to read:

25 (b) The commission may set aside a portion of grant awards for otherwise
26 eligible applicants whose employment prevents them from attending school on a full-
27 time basis. The commission shall adopt regulations to carry out the purposes of this
28 subsection.

29 * **Sec. 23.** AS 14.43.415 is repealed and reenacted to read:

30 **Sec. 14.43.415. Eligibility; priority.** (a) For an applicant to be eligible for a
31 grant under AS 14.43.400 - 14.43.420, the applicant must be

- 1 (1) a resident of this state;
- 2 (2) enrolled or about to be enrolled
- 3 (A) at an institution approved to participate in federal financial
- 4 aid programs under 20 U.S.C. 1070 - 1099c-2, as amended, located in this
- 5 state; and
- 6 (B) on at least a half-time basis; and
- 7 (3) able to demonstrate financial need in accordance with standards for
- 8 determining financial need established by the commission under 20 U.S.C. 1070c-2, as
- 9 amended.

10 (b) The commission shall give an applicant eligible under (a) of this section

11 priority for a grant award if that applicant is, or is about to be, enrolled in a program of

12 study that is preparatory for employment in an occupation or profession for which the

13 Department of Labor and Workforce Development, or another workforce data source

14 selected as reliable by the commission, indicates there is a severe shortage of trained

15 individuals in this state. Additionally, the commission may give an applicant priority

16 for a grant award if that applicant has participated in a secondary education program

17 of study that can be demonstrated to the commission to be a predictor for success at

18 the postsecondary education level for a program of study described in this subsection.

19 For purposes of this subsection,

20 (1) "occupation or profession" means a job for which specific

21 postsecondary certification is a prerequisite for entry-level placement;

22 (2) "severe shortage" means a current or recurring job vacancy rate of

23 15 percent or greater, as determined by the Department of Labor and Workforce

24 Development or by another workforce data source determined reliable by the

25 commission.

26 (c) The commission shall adopt regulations to establish a prioritization process

27 for awarding grants under AS 14.43.400 - 14.43.420.

28 * **Sec. 24.** AS 14.43.420(a) is amended to read:

29 (a) A grant made under **AS 14.43.400 - 14.43.420** [AS 14.43.400 - 14.43.500]

30 may not be in an amount less than **\$500** [\$100] nor more than **\$2,000** [\$1,500] for

31 each **school** [ACADEMIC] year.

1 * **Sec. 25.** AS 14.43.420 is amended by adding a new subsection to read:

2 (c) A student may receive not more than a total of \$8,000 in grants awarded
3 under AS 14.43.400 - 14.43.420.

4 * **Sec. 26.** AS 14.43.740(a) is amended to read:

5 (a) The provisions of AS 14.43.100, **14.43.120(a) - (c), (m), and (r) - (u),**
6 **14.43.122** [14.43.110, 14.43.120(a) - (d), (m), AND (r) - (u)], 14.43.135, **14.43.145 -**
7 **14.43.155** [14.43.145 - 14.43.150], and 14.43.910 - 14.43.990 apply to a loan made
8 under AS 14.43.710 - 14.43.750.

9 * **Sec. 27.** AS 14.43.740 is amended by adding a new subsection to read:

10 (g) The commission may, by regulation, set loan limits for loans made under
11 AS 14.43.710 - 14.43.750.

12 * **Sec. 28.** AS 14.43.990 is amended by adding new paragraphs to read:

13 (5) "AlaskAdvantage" means the service mark registered by the
14 commission under 15 U.S.C. 1051 (Trademark Act) that is used to describe financial
15 aid and higher education outreach programs and services provided by the commission;

16 (6) "education loan" means a loan made to finance the cost of
17 attendance in a postsecondary education program that is made by the commission or is
18 a loan received through the federal guaranteed student loan program.

19 * **Sec. 29.** AS 14.44.040(c) is amended to read:

20 (c) If a program participant defaults on the repayment obligation, the
21 provisions of **AS 14.43.145 - 14.43.155** [AS 14.43.145 - 14.43.150] apply to collect
22 on the obligation as if it were a defaulted loan under AS 14.43.

23 * **Sec. 30.** AS 36.30.850(b) is amended by adding a new paragraph to read:

24 (44) contracts of the Alaska Commission on Postsecondary Education
25 or the Alaska Student Loan Corporation for the guarantee and disbursing of financial
26 aid money to institutions of postsecondary education under the financial aid programs
27 under AS 14.43.091 - 14.43.750 and AS 14.44.025.

28 * **Sec. 31.** AS 14.42.110, 14.42.220(f); AS 14.43.122(b), 14.43.300(g), 14.43.405(b),
29 14.43.420(b), and 14.43.500 are repealed.

30 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITION: REGULATIONS. The Alaska Student Loan Corporation may
2 proceed to adopt regulations to implement the changes made by sec. 6 of this Act. The
3 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
4 effective date of sec. 6 of this Act.

5 * **Sec. 33.** The uncoded law of the State of Alaska is amended by adding a new section to
6 read:

7 REVISOR OF STATUTES INSTRUCTIONS. (a) The revisor of statutes is
8 instructed to change the heading of Article 5 of AS 14.43 from "Article 5. Alaska Advantage
9 Loan Program." to "Article 5. AlaskAdvantage Loan Program."

10 (b) The revisor of statutes is instructed to change the heading of Article 8 of AS 14.43
11 from "Article 8. Educational Incentive Grant Program." to "Article 8. AlaskAdvantage
12 Education Grant Program."

13 * **Sec. 34.** The uncoded law of the State of Alaska is amended by adding a new section to
14 read:

15 REGULATIONS ATTORNEY INSTRUCTIONS. Wherever in the Alaska
16 Administrative Code the term "Alaska advantage" is used, it shall be read as
17 "AlaskAdvantage" when to do so would be consistent with the changes in this Act. Under
18 AS 44.62.125(b)(6), the regulations attorney is instructed to make changes in the Alaska
19 Administrative Code consistent with this section.

20 * **Sec. 35.** Section 6 of this Act takes effect January 1, 2005.

21 * **Sec. 36.** Except as provided in sec. 35 of this Act, this Act takes effect immediately under
22 AS 01.10.070(c).