

SECOND REGULAR SESSION

HOUSE BILL NO. 1919

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHULL (16).

4012H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 173.385, RSMo, and to enact in lieu thereof one new section relating to duties of the Missouri higher education loan authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 173.385, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 173.385, to read as follows:

173.385. 1. The authority shall have the following powers, together with all powers incidental thereto or necessary for the performance thereof:

- (1) To have perpetual succession as a body politic and corporate;
- (2) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (3) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;
- (4) To have and to use a corporate seal and to alter the same at pleasure;
- (5) To maintain an office at such place or places in the state of Missouri as it may designate;
- (6) To issue bonds or other forms of indebtedness to obtain funds to purchase student loan notes or finance student loans, or both, including those which are guaranteed under the provisions of sections 173.095 to 173.187, or under the provisions of the federal Higher Education Act of 1965, as amended, or secondary education loans, or scholarships which have been converted to loans under the Missouri teacher education scholarship program provided for in sections 160.276 to 160.283. Such bonds or other forms of indebtedness shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of student loan notes or financing of student loans, or both, and investment income or shall be payable from and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 secured as may be designated in a bond resolution authorized by the authority. Such bonds or
19 other forms of indebtedness shall not constitute a debt or liability of the state of Missouri or of
20 any political subdivision thereof;

21 (7) To cause proceeds of any bond or any other form of indebtedness to be used to
22 purchase student loan notes or finance student loans, or both, including those which are
23 guaranteed under section 173.110, or guaranteed under the federal Higher Education Act of
24 1965, as amended, or secondary education loans, or scholarships which have been converted to
25 loans under the Missouri teacher education scholarship program provided for in sections 160.276
26 to 160.283;

27 (8) To sell or enter into agreements to sell student loan notes acquired pursuant to
28 subdivision (7) of this section, and any agreement to sell student loan notes guaranteed under
29 section 173.110 shall be subject to prior approval of the department. Such agreements to sell
30 student loan notes shall be limited only by the terms of the bond resolution authorizing the issue
31 of the bonds or other forms of indebtedness, but shall not be limited by any other provision of
32 law limiting the sale of such student loan notes;

33 (9) To transfer assets of the authority to the Lewis and Clark discovery fund established
34 in section 173.392;

35 (10) To accept appropriations, gifts, grants, bequests, and devises and to utilize or
36 dispose of the same to carry out its purpose;

37 (11) To make and execute contracts, releases, compromises, and other instruments
38 necessary or convenient for the exercise of its powers, or to carry out its purpose;

39 (12) To collect reasonable fees and charges in connection with making and servicing its
40 loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in
41 connection with providing technical, consultative and project assistant services. Such fees and
42 charges shall be used to pay the costs of the authority;

43 (13) To invest any funds not required for immediate disbursement in obligations of the
44 state of Missouri or of the United States government or any instrumentality thereof, the principal
45 and interest of which are guaranteed by the state of Missouri, or the United States government
46 or any instrumentality thereof, or certificates of deposit or time deposits of federally insured
47 banks, or federally insured savings and loan associations or of insured credit unions, or, with
48 respect to moneys pledged or held under a trust estate or otherwise available for the owners of
49 bonds or other forms of indebtedness, any investment authorized under the bond resolution
50 governing the security and payment of such obligations or repurchase agreements for the
51 specified investments;

52 (14) To acquire, hold and dispose of personal property to carry out its purposes;

53 (15) To enter into agreements or other transactions with any federal or state agency, any
54 person and any domestic or foreign partnership, corporation, association or organization;

55 (16) To take any necessary actions to be qualified to issue tax-exempt bonds or other
56 forms of tax-exempt indebtedness pursuant to the applicable provisions of the Internal Revenue
57 Code of 1986, as amended, including the issuance of such bonds to fulfill the obligations of the
58 authority under subsection 2 of this section;

59 (17) To take any necessary actions to be qualified to issue bonds or other forms of
60 indebtedness, the interest on which is not exempt from federal income taxation, including the
61 issuance of such bonds to fulfill the obligations of the authority under subsection 2 of this
62 section;

63 (18) To service student loans for any owner thereof, regardless of whether such student
64 loans are originated in this state or out of this state;

65 (19) To create, acquire, contribute to, or invest in any type of financial aid program that
66 provides grants and scholarships to students.

67 2. The authority shall distribute three hundred fifty million dollars of assets of the
68 authority to the Lewis and Clark discovery fund established in section 173.392 as follows: two
69 hundred thirty million dollars no later than September 15, 2007; five million dollars by
70 December 31, 2007; and five million dollars each quarter thereafter ending September 30, 2013.
71 Any investment earnings on the moneys in the Lewis and Clark discovery fund shall be credited
72 against the next distribution by the authority and shall thereby reduce the amount of any such
73 distribution by the authority. The authority shall make any distributions to the Lewis and Clark
74 discovery fund pursuant to the dates scheduled in this subsection, provided, however, that the
75 date of any such distribution may be delayed by the authority if the authority determines that any
76 such distribution may materially adversely effect the services and benefits provided Missouri
77 students or residents in the ordinary course of the authority's business, the borrower benefit
78 programs of the authority, or the economic viability of the authority. Notwithstanding the ability
79 of the authority to delay any distribution required by this subsection, the distribution of the entire
80 three hundred fifty million dollars of assets by the authority to the Lewis and Clark discovery
81 fund shall be completed no later than September 30, 2013, unless otherwise approved by the
82 authority and the commissioner of the office of administration.

83 3. No member of the authority who lawfully acts or votes on any agreement or other
84 matter authorized under the powers granted to the authority under this section shall incur any
85 personal liability as a result of such lawful deliberations, acts, or votes, and such members shall
86 be immune from suit for such deliberations, acts, or votes. In no event shall such deliberations,
87 acts, or votes constitute a conflict of interest under section 173.380.

88 4. Notwithstanding any provision of law to the contrary, in the event of the initial
89 distribution of two hundred thirty million dollars of assets by the authority to the Lewis and
90 Clark discovery fund created in section 173.392, the director of the department of economic
91 development shall allocate to and reserve for the authority during the year of such first
92 distribution and in at least each of the next fourteen years thereafter a percentage of the state
93 ceiling under sections 108.500 to 108.532, which percentage shall at a minimum be equal to one
94 and one-half percent less than the average percentage of the authority's allocation of state ceiling
95 for the two calendar years 2005 and 2006 calculated annually. The dollar amount of state ceiling
96 to be received by the authority as determined under the provisions of this subsection for calendar
97 year 2014 and later years, not to exceed calendar year 2021, shall be reduced in any calendar year
98 by the percentage of the three hundred fifty million dollars not yet distributed by the authority
99 to the Lewis and Clark discovery fund by the preceding calendar year end.

100 **5. (1) As used in this subsection, the following terms mean:**

101 **(a) "Applicant", a person who is legally separated or divorced and whose**
102 **ownership of a student loan has been divided or disposed of in connection with a**
103 **dissolution of marriage, legal separation, or annulment;**

104 **(b) "Student loan", any student loan notes or financing of student loans, or both,**
105 **held or serviced by the authority.**

106 **(2) The authority shall establish a procedure by which any applicant who provides**
107 **written notice of the applicant's dissolution of marriage, legal separation, or annulment**
108 **may have the applicant's student loans equitably divided from the applicant's spouse's**
109 **student loans unless the judgment, order, or decree of dissolution of marriage, legal**
110 **separation, or annulment prohibits any such division.**

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