

LD2048358

HOUSE BILL NO. 1986

Offered January 20, 1995

A *BILL to amend and reenact §§ 23-38.81 and 23-38.82, as they may become effective, of the Code of Virginia, and to amend and reenact the third enactment of Chapter 661 of the 1994 Acts of Assembly, relating to the Virginia Higher Education Tuition Trust Fund.*

Patrons—Mims and Cantor

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 23-38.81 and 23-38.82, as they may become effective, of the Code of Virginia, are amended and reenacted as follows:

§ 23-38.81. (Effective July 1, 1996) Prepaid tuition contracts; terms; termination; etc.

A. Each prepaid tuition contract made pursuant to this chapter shall include the following terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;

2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;

3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;

4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;

5. Terms and conditions for a substitution for the qualified beneficiary originally named;

6. Terms and conditions for termination of the contract, including any refunds and the name of the person or persons entitled to terminate the contract;

7. The time period during which the qualified beneficiary must claim benefits from the Fund;

8. The number of credit hours or quarters, semesters, or terms contracted for by the purchaser;

9. Provisions for the application of tuition prepayments, (i) at accredited, nonprofit, independent institutions of higher education located in Virginia, including actual interest and income earned on such prepayments and (ii) at public and accredited, nonprofit, independent institutions of higher education located in other states, including principal and reasonable return on such principal as determined by the Board. *Payments authorized for accredited, nonprofit, independent institutions located in Virginia may not exceed the projected highest payment made for tuition at a public institution of higher education in Virginia in the same academic year. Payments authorized for accredited, nonprofit, independent institutions of higher education located in other states may not exceed the projected average payment made for tuition at a public institution of higher education in Virginia in the same academic year ;*

10. All other rights and obligations of the purchaser and the trust; and

11. Any other terms and conditions which the Board deems necessary or appropriate.

B. All prepaid tuition contracts shall specifically provide that, if after a specified period of time the contract has not been terminated nor the qualified beneficiary's rights exercised, the Board, after making reasonable effort to contact the purchaser and the qualified beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55-210.12.

§ 23-38.82. (Effective July 1, 1996) Federal securities rulings required.

No prepaid tuition contract shall be made until the Internal Revenue Service has issued a favorable ruling or opinion that (i) the purchaser will not be deemed to be actually or constructively in receipt of income until tuition payments are made by the Board pursuant to a tuition payment contract and (ii) assets of the Fund, including earnings accrued, are exempt from federal income taxation. If an unfavorable ruling or opinion is issued, the Secretary of Finance shall present a report to the Governor and the General Assembly outlining recommendations for the modification and continuance of the Fund. The Secretary of Finance shall also solicit responses to ruling requests from the Securities and Exchange Commission regarding the application of federal laws to the Fund prior to making any prepaid tuition contract.

2. That the third enactment of Chapter 661 of the 1994 Acts of Assembly is amended and reenacted as follows:

3. That the Secretary of Finance and the Director of the State Council of Higher Education shall, upon final passage of this act, seek the approvals and responses required by § 23-38.82, as added to the Code of Virginia by this act. If a favorable ruling or opinion from the Internal Revenue Service is received prior to July 1, 1996, on and after July 1, 1995, the Board of the Virginia Higher Education Tuition Trust Fund shall be constituted as provided in § 23-38.76, as added to the Code of Virginia by

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60 this act, ~~at that time~~ *to make such preparations and to take such actions as may be necessary to*
61 *administer the Fund and to implement the tuition prepayment program established by this act on July 1,*
62 *1996.*