

Assembly Bill No. 751

Passed the Assembly August 30, 2006

Chief Clerk of the Assembly

Passed the Senate August 23, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 16 (commencing with Section 69850) to Chapter 2 of Part 42 of the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 751, Chu. Student financial aid: Student Aid Commission: regulation of purveyors of private college financial aid services.

Existing law establishes the Student Aid Commission as the primary state agency for the administration of state-authorized student financial aid programs for students attending all segments of postsecondary education.

This bill would authorize the commission to regulate all matters and functions related to the California operations of purveyors of private college financial aid services, as defined, for the purposes of preventing financial aid and scholarship fraud, as defined. The bill would require a purveyor of private college financial aid services to register with the commission and pay an annual registration fee of up to \$100. The bill would authorize the commission to levy fines of between \$2,000 and \$10,000 on purveyors of private college financial aid services that fail to register or that violate any other provision of the bill.

The bill would require that moneys received by the commission as fees or fines pursuant to the bill, or as the proceeds of a bond obtained pursuant to the bill, be deposited into the Purveyor of Private College Financial Aid Services Fund, which the bill would establish. The bill would make the moneys in the fund available to the commission, upon appropriation in the annual Budget Act or another statute, for the purposes of performing its duties and responsibilities under the bill.

The bill would require the commission to establish a special enforcement unit, and would specify the functions of the special enforcement unit.

The bill would require a purveyor of private college financial aid services to file with the commission a bond of at least \$50,000 prior to engaging in the business of providing services in

this state. The bill would require this bond to be in favor of, and payable to, the State of California, and to be for the benefit of any resident of California damaged by financial aid and scholarship fraud committed by the entity that obtained the bond.

The bill would authorize the Attorney General, a district attorney, or a city attorney to bring a civil action on behalf of the California public to address damage by financial aid and scholarship fraud within the meaning of the bill.

The bill would require that any contract entered into by a purveyor of private college financial aid services with a California resident for services regulated by this chapter be in writing, in the primary language of the parent or student who enters into the contract, and provide for a grace period of at least 30 days during which the parent or student could rescind the contract without penalty. The bill would provide that any contract entered into by a purveyor of private college financial aid services with a California resident for services regulated by the bill would be unenforceable if that purveyor is not, at the time the contract is entered into, registered with the Student Aid Commission in accordance with the bill, or if that purveyor has not filed a bond with the commission in accordance with the bill. The bill would require a purveyor of private college financial aid services to provide clients and potential clients with specified information about similar services that may be offered by state or federal governmental agencies.

The people of the State of California do enact as follows:

SECTION 1. Article 16 (commencing with Section 69850) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 16. Purveyors of Private College Financial Aid
Services

69850. (a) It is the intent of the Legislature, in enacting this article, to prevent financial aid and scholarship fraud.

(b) As used in this article:

(1) (A) “Financial aid and scholarship fraud” means any fraud, misrepresentation, or failure to comply with established statutes, rules, and regulations in connection with the obtaining

or providing of, or the furnishing of information to a consumer about, any scholarship, grant, loan, tuition, discount, award, or other financial assistance provided for the purposes of financing an education at an institution of higher education.

(B) “Financial aid and scholarship fraud” includes, but is not necessarily limited to, all of the following:

(i) A misrepresentation regarding the provision of a source from which a consumer may obtain student financial aid. For purposes of this clause, a “source” includes, but is not necessarily limited to, a scholarship, a grant, a loan, the provision of tuition, an award, or other assistance that is offered for the purposes of financing education at a college or university.

(ii) A misrepresentation regarding the provision of a portfolio describing student financial aid that is tailored to the needs of specific consumers.

(iii) A misrepresentation regarding the preselection of a student as eligible to receive student financial aid.

(iv) A misrepresentation to the effect that the student financial aid will be provided to a consumer who purchases specified services from a specified entity.

(v) A misrepresentation regarding a business relationship between a particular entity and an entity that awards, or that may award, student financial aid.

(vi) A misrepresentation regarding a refund of a processing fee in the event that a consumer is not provided a specified amount of student financial aid, or any other related misrepresentation regarding a refund.

(2) (A) “Purveyor of private college financial aid services” means a person who, or an entity that, in exchange for valuable consideration, supplies or otherwise provides services to any California resident in connection with the obtaining or providing of, or the furnishing of information to a consumer about, any scholarship, grant, loan, tuition, discount, award, or other financial assistance provided for the purposes of financing an education at an institution of higher education.

(B) “Purveyor of private college financial aid services” does not include any of the following:

(i) A nonprofit corporation or its employees.

(ii) An individual who helps students or their families, or both, complete financial aid or scholarship forms, and who does not charge for those services.

(iii) A bank, bank holding company, or the subsidiary or affiliate of either, or a credit union or other financial institution licensed under state or federal law.

(iv) A participant in the Federal Family Education Loan Program, or any subsidiary or affiliate of that participant, that is regulated by the United States Department of Education under the federal Higher Education Act of 1965 (Public Law 89-329) and any amendments or extensions thereof.

(v) Private postsecondary and vocational education institutions that are subject to Chapter 7 (commencing with Section 94700) of Part 59.

(vi) A lender or broker licensed pursuant to the California Finance Lenders Law (Division 9 (commencing with Section 22000) of the Financial Code).

69851. The Student Aid Commission is authorized to regulate all matters and functions related to the California operations of purveyors of private college financial aid services for the purposes of preventing financial aid and scholarship fraud.

69852. (a) A purveyor of private college financial aid services that does business in California shall register annually with the Student Aid Commission in accordance with this section. This subdivision shall apply to purveyors of private college financial aid services doing business in California even if their businesses are not headquartered in this state.

(b) The Student Aid Commission may charge a purveyor of private college financial aid services registering under this section an annual filing and disclosure fee of up to one hundred dollars (\$100). The commission may levy a fine of not less than two thousand dollars (\$2,000), and not more than ten thousand dollars (\$10,000), on purveyors of private college financial aid services that fail to register in compliance with this subdivision or that violate any other provision of this article.

(c) Moneys received by the Student Aid Commission as fees or fines pursuant to this section, or as the proceeds of a bond obtained pursuant to Section 69854, shall be deposited into the Purveyor of Private College Financial Aid Services Fund, which is hereby established. All moneys deposited in the fund shall be

available, upon appropriation in the annual Budget Act or another statute, to the Student Aid Commission for expenditure for the purposes of performing the duties and responsibilities imposed on the commission by this article.

69853. The Student Aid Commission shall establish a special enforcement unit to ensure that all persons and entities regulated pursuant to this article are in compliance with relevant state and federal laws and regulations. The Student Aid Commission shall establish an Internet Web site that interested persons may use to learn about financial aid and scholarship fraud and to report suspected incidents of financial aid and scholarship fraud to the Student Aid Commission. The commission shall report any pertinent information it receives through the Internet Web site established under this section to the Office of the Attorney General.

69854. (a) Prior to engaging in the business of providing services in this state, a purveyor of private college financial aid services shall file with the Student Aid Commission a bond of at least fifty thousand dollars (\$50,000) executed by a corporate surety authorized to do business in this state. The total aggregate liability on the bond shall be limited to fifty thousand dollars (\$50,000).

(b) The bond required by this section shall be in favor of, and payable to, the State of California, and shall be for the benefit of any resident of California damaged by financial aid and scholarship fraud committed by the entity that obtained the bond.

69855. The Attorney General, a district attorney, or a city attorney may bring a civil action on behalf of the California public to address damage by financial aid and scholarship fraud within the meaning of this article.

69856. (a) Any contract entered into by a purveyor of private college financial aid services with a California resident for services regulated by this article shall be in writing, in the primary language of the parent or student who enters into the contract. The contract shall provide for a grace period of at least 30 days from the date of the signing of the contract during which the student or parent executing the contract may rescind the contract without penalty.

(b) Notwithstanding any other provision of law, any contract entered into by a purveyor of private college financial aid

services with a California resident for services regulated by this article is unenforceable in the event of either of the following:

(1) The purveyor of private college financial aid services is not, at the time the contract is entered into, registered with the Student Aid Commission in accordance with Section 69852.

(2) The purveyor of private college financial aid services has not filed a bond with the Student Aid Commission in accordance with Section 69854.

(c) A purveyor of private college financial aid services shall provide a client or a potential client with information, in writing, about services offered by the state and federal governments that the client or potential client may use for the purposes of obtaining advice relating to college financial aid. In particular, a purveyor of private college financial aid services shall inform clients and potential clients of any and all services provided by the purveyor that a state or federal agency provides free of charge.

Approved _____, 2006

Governor