

Authorizing Statutes
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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS

PART 2
STUDENT OBLIGATIONS AND AUTHORITY LOANS

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23-3.1-201. Legislative declaration.

Statute text

The general assembly hereby declares that the availability of improved access to and choice of higher education opportunities in this state will benefit the residents of the state and that the establishment of a student obligation bond program, with proceeds of bonds to be used for the purchase or making of student obligations or the making of institutional loans, and the establishment of a prepaid postsecondary education expense program will enhance the availability of student obligations and assist residents in meeting the expenses incurred in availing themselves of higher education opportunities. It is the intent of the general assembly in enacting this part 2 to create CollegeInvest, which shall be a division within the department of higher education and which authority shall make or purchase student obligations, shall make institutional loans, and shall develop and administer a prepaid postsecondary education expense program. This part 2 shall be liberally construed to accomplish the intentions expressed in this section.

History

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. L. 84: Entire section amended, p. 623, § 15, effective April 10. L. 96: Entire section amended, p. 421, § 1, effective April 22. L. 2000: Entire section amended, p. 1268, § 1, effective May 26. L. 2004: Entire section amended, p. 560, § 5, effective July 1.

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23-3.1-202. Definitions.

Statute text

As used in this part 2, unless the context otherwise requires:

(1) "Advance payment contract" means a contract entered into by the authority, as defined in subsection (2) of this section, and a purchaser in connection with the prepaid postsecondary education expense program as authorized in section 23-3.1-206.7.

(2) "Authority" means CollegelInvest, transferred to the department and existing as a division of the department pursuant to section 23-3.1-203.

(3) "Board" means the board of directors of the authority.

(4) "Bond" means any bond, note, debenture, interim certificate, or other evidence of indebtedness authorized to be issued by the authority pursuant to this part 2, including refunding bonds.

(5) "Bond resolution" means the resolution authorizing the issuance of or providing the terms and conditions related to bonds issued pursuant to this part 2 and includes any trust agreement or trust indenture providing terms and conditions for such bonds.

(6) "CollegelInvest" means:

(a) The Colorado student obligation bond authority, as it existed prior to May 26, 2000, as an independent public body politic in accordance with section 23-3.1-203, as it existed prior to said date;

(b) On and after May 26, 2000, but prior to July 1, 2004, the Colorado student obligation bond authority transferred to the department and existing as a division of the department pursuant to section 23-3.1-203, as it existed prior to said date;

(c) On and after July 1, 2004, the successor to the Colorado student obligation bond authority existing as a division of the department pursuant to section 23-3.1-203, but designated and formally and legally known, as of July 1, 2004, as CollegelInvest.

(7) "Contract price" means the aggregate of all payment amounts to be remitted during the contract term by purchasers under the outstanding advance payment contracts as provided on the respective dates of execution thereof.

(8) "Director" means the executive officer of CollegelInvest, appointed in accordance with section 23-3.1-203.

(9) "Excess amount" means the assets in the Colorado prepaid postsecondary education expense trust fund that the actuarial calculation under section 23-3.1-206.7 (5) demonstrates are in excess of the

assets required to pay the obligations of the prepaid expense trust fund with a likelihood of such sufficiency of at least ninety-five percent.

(10) "Executive director" means the executive director of the department of higher education.

(11) "Executive officer" means the director of CollegeInvest, transferred to the department and existing as a division of the department pursuant to section 23-3.1-203.

(12) "Expected tuition units" means the total tuition units paid for and not distributed or refunded together with the portion of tuition units available for purchase under outstanding advance payment contracts that, based on an actuarial projection, are expected to be paid for and become obligations of the Colorado prepaid postsecondary education expense trust fund.

(13) "Institutional loan" means a loan made by CollegeInvest from bond proceeds, or other available moneys, to one or more institutions of higher education, to a nonprofit corporation acting on behalf of one or more institutions of higher education, to the division, or to purchasers, and made for the purpose of funding student obligations or payments to be made under advance payment contracts.

(14) "Investable assets" means cash and cash equivalents on deposit in the prepaid expense trust fund and investments of amounts deposited to the prepaid expense trust fund.

(15) "Prepaid expense program" means the Colorado prepaid postsecondary education expense program authorized in section 23-3.1-206.7.

(16) "Prepaid expense trust fund" means the Colorado prepaid postsecondary education expense trust fund established by the authority in accordance with section 23-3.1-206.7 (5) and transferred on May 26, 2000, pursuant to section 23-3.1-206.7 (5).

(17) "Purchaser" means a person who makes or is obligated to make a payment or payments in accordance with an advance payment contract on behalf of a qualified beneficiary.

(18) "Qualified beneficiary" means a person identified in an advance payment contract as the recipient of moneys or benefits to be disbursed in accordance with an advance payment contract.

(19) "State institution" shall have the same meaning as provided in section 23-3.3-101 (4).

(20) "Student" means a student who, under rules promulgated by the division, is enrolled or accepted for enrollment at an institution of higher education and who is making suitable progress in his or her education toward obtaining a degree or other appropriate certification in accordance with standards promulgated by the division.

(21) "Student obligations" means student obligation notes and other debt obligations evidencing loans made for higher education purposes, or to any person for the purposes of consolidating or refinancing loans for higher education purposes, which are either guaranteed student loans, educational loans, or loans eligible for consolidation or refinancing under Part B of Title IV of the federal "Higher Education Act of 1965", as amended, which the authority may make, acquire, buy, sell, or endorse pursuant to this part 2, or which one or more institutions of higher education, or a nonprofit corporation acting on behalf of one or more institutions of higher education, or the division may make from or in anticipation

of an institutional loan and which include a direct or indirect interest, in whole or part, of the notes or obligations.

(22) "Tuition" means the quarter, semester, or term charges imposed by an institution of higher education and such fees or charges as may be included in the advance payment contract at the option of the authority.

History

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. L. 81: (7) amended, p. 1090, § 1, effective May 29. L. 84: (1.5) and (4.5) added and (7) amended, p. 623, § 16, effective April 10. L. 87: (7) amended, p. 846, § 3, effective February 26. L. 96: (1) and (1.5) amended and (1.2), (4.2), (4.4), (5.1), (5.2), (5.3), (5.5), (5.6), (5.7), (5.8), (5.9), and (8) added, p. 421, § 2, effective April 22. L. 2000: Entire section amended, p. 1268, § 2, effective May 26. L. 2004: Entire section R&RE, p. 560, § 6, effective July 1.

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23-3.1-203. Authority - creation - membership - transfer of personnel.

Statute text

(1) Effective May 26, 2000, the authority shall be transferred to the department of higher education, and shall become a division thereof. Except as otherwise provided in this article, on and after May 26, 2000, the authority shall exercise its powers, duties, and functions under the department of higher education as if it were transferred by a type 2 transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S. The director shall be appointed by the executive director and shall function as the executive officer of the authority. The director, with the approval of the executive director, shall employ such professional and clerical personnel as may be deemed necessary to carry out the duties and functions of the authority. Such personnel shall receive compensation for their services as determined by the director. The director and all personnel of the authority are declared to hold educational offices and to be exempt from the state personnel system.

(2) (a) Effective May 26, 2000, the board of directors of the authority, as it existed prior to May 26, 2000, shall be transferred with the authority to the department of higher education. The board shall continue to consist of nine members who shall continue to be appointed by the governor, with the consent of the senate. Such members shall be residents of the state. The term of office of each member shall be four years; except that, of the appointments made on or after May 26, 2000, and prior to July 1, 2000, three members shall serve for terms of two, three, and four years, respectively. Each member shall serve until his or her successor has been appointed by the governor and qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy by appointment for the remainder of an unexpired term. Any member appointed by the governor when the general assembly is not in regular session,

whether appointed for an unexpired term or for a full term, shall be deemed to be duly appointed and qualified until the appointment of such member is approved or rejected by the senate. Such appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(b) Any member of the board appointed by the governor may be removed by the governor.

(3) (a) On and after July 1, 2004, the division of the department of higher education known prior to said date as the Colorado student obligation bond authority shall be formally and legally known as and designated CollegeInvest.

(b) On and after July 1, 2004, whenever the Colorado student obligation bond authority or the board of directors of the Colorado student obligation bond authority is referred to or designated by a contract or other document, such reference or designation shall be deemed to apply to CollegeInvest as a division of the department of higher education pursuant to this section. All contracts entered into by or on behalf of the Colorado student obligation bond authority or its board prior to July 1, 2004, are hereby validated as obligations of CollegeInvest.

History

Source: L. 79: Entire article added, p. 813, § 1, effective July 1. L. 84: (2) R&RE, p. 624, § 17, effective April 10. L. 87: (2)(a) amended, p. 906, § 13, effective June 15. L. 2000: Entire section amended, p. 1271, § 3, effective May 26. L. 2004: (1) amended and (3) added, p. 563, § 7, effective July 1.

Annotations

Cross references: (1) For limitation on issuance of private activity bonds, see part 17 of article 32 of title 24.

(2) For the provisions which designate the Colorado student obligation bond authority as a "special purpose authority" for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

Annotations

ANNOTATION

Annotations

C.J.S. See 14A C.J.S., Colleges and Universities, §§ 15, 16.

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23-3.1-204. Organizational meeting - chairperson - conflict of interest.

Statute text

(1) On or before July 15, 2000, a member of the board, designated by the governor, shall call and convene the initial organizational meeting of the board after transfer of the authority to the department and shall serve as its chairperson pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the delegation of certain powers and duties and such other matters as the authority deems proper. At such meeting, and annually thereafter, the board shall elect one of its members as chairperson and one as vice-chairperson.

(2) The director or any other person designated by the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board and the minute books or journal of the board. Said director or other person may cause copies to be made of all minutes and other records and documents of the board and may give certificates to the effect that such copies are true copies and all persons dealing with the authority may rely on such certificates.

(3) The board may delegate to one or more of its members or to its director such powers and duties as it may deem proper and to its director or any other person designated by the board, the power to fix the interest rates of any particular issue, subject to such limitations as shall be prescribed by the board.

(4) (Deleted by amendment, L. 2004, p. 563, § 8, effective July 1, 2004.)

(5) Any member of the board shall disqualify himself or herself from voting on any issue in which he or she has a conflict of interest unless such member has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S.

History

Source: L. 79: Entire article added, p. 813, § 1, effective July 1. L. 84: (3) amended and (5) R&RE, pp. 624, 625, §§ 18, 19, effective April 10. L. 2000: Entire section amended, p. 1272, § 4, effective May 26. L. 2004: (3) and (4) amended, p. 563, § 8, effective July 1.

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23-3.1-205. Meetings of board - quorum - expenses.

Statute text

(1) Five members of the board shall constitute a quorum. Action may be taken by the board upon the affirmative vote of a majority of the members present at any meeting at which a quorum is present. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(2) Pursuant to part 4 of article 6 of title 24, C.R.S., each meeting of the board shall be open to the public. Notice of meetings shall be as provided in accordance with applicable law. One or more members of the board may participate in any board meeting and may vote on resolutions through the usage of telecommunications devices, including, but not limited to, the usage of a conference telephone or similar communications equipment. Such participation through telecommunications devices shall constitute presence in person at such meeting. Such use of telecommunications shall not supersede any requirements for public hearing otherwise provided by law. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board shall be a public record.

(3) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling and lodging expenses, incurred in the discharge of their official duties. Any payments for expenses shall be paid from funds of the authority.

History

Source: L. 79: Entire article added, p. 814, § 1, effective July 1. L. 83: (2) amended, p. 785, § 1, effective April 29. L. 84: (1) amended, p. 625, § 20, effective April 10. L. 91: (2) amended, p. 901, § 2, effective April 19; (2) amended, p. 820, § 4, effective June 1. L. 2000: Entire section amended, p. 1273, § 5, effective May 26. L. 2004: (1) amended, p. 564, § 9, effective July 1.

Annotations

Editor's note: Amendments to subsection (2) in Senate Bill 91-33 and House Bill 91-1119 were harmonized.

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23-3.1-205.3. Transfer of property.

Statute text

(1) On May 26, 2000, all items of property, real and personal, including office furniture and fixtures, books, documents, funds and accounts, and records of the authority shall be transferred with the authority to the department of higher education, and shall remain the property of the authority.

(2) Amounts in the existing administrative fund of the authority transferred on May 26, 2000, shall be deposited as provided in section 23-3.1-205.4. Funds of the authority held by a corporate trustee pursuant to a trust indenture shall continue to be held and invested in accordance with such trust indenture. The prepaid tuition expense fund shall be transferred to be held by the state treasury and shall be administered in accordance with the provisions of this part 2.

(3) On and after May 26, 2000, whenever the Colorado student obligation bond authority or the board of directors of the Colorado student obligation bond authority is referred to or designated by any contract or other document or in other state statutory provisions, such reference or designation shall be deemed to apply to the authority as a division of the department of higher education pursuant to section 23-3.1-203. All contracts entered into by or on behalf of the Colorado student obligation bond authority or its board prior to May 26, 2000, are hereby validated, with the authority in the department of higher education succeeding to all rights and assuming all obligations under such contracts.

(4) No suit, action, or other judicial or administrative proceeding lawfully commenced prior to May 26, 2000, or that could have been commenced prior to said date, by or against the Colorado student obligation bond authority, its board of directors, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties shall abate by reason of the transfer of the authority and its board to the department of higher education.

History

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26. L. 2004: (1) and (3) amended, p. 564, § 10, effective July 1.

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23-3.1-205.4. CollegeInvest fund - creation - control - use.

Statute text

(1) There is hereby created in the state treasury the Colorado student obligation bond authority fund, to be known and referred to on and after July 1, 2004, as the CollegeInvest fund, which shall be under the control of the authority in accordance with the provisions of this part 2 and part 3 of this article. The moneys in the CollegeInvest fund shall be invested by the state treasurer. Except as otherwise allowed by section 24-36-103 (2), C.R.S., and except for amounts received in connection with the prepaid expense program and the program in part 3 of this article, all moneys received or acquired by the authority, whether by appropriation, grant, contract, gift, sale or lease of surplus real or personal property, or any other means, whose disposition is not otherwise provided for by law or by a trust indenture, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund, including moneys received pursuant to sections 23-3.1-206 (1) (k) and 23-3.1-304 (1) (h). The moneys in the fund are hereby continuously appropriated to the authority and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the CollegeInvest fund may be used by the authority for the payment of salaries and operating and administrative expenses of the authority and for the payment of any other obligations incurred by the authority in carrying out its statutory powers and duties.

(3) The moneys in the CollegeInvest fund that are not needed for immediate use by the authority may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The authority shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of such amount.

(4) The authority may request authorization to transfer or loan moneys from the CollegeInvest fund to the prepaid expense trust fund, created in section 23-3.1-206.7, or to any fund created for the implementation of the college savings program, established pursuant to part 3 of this article, as necessary to carry out the authority's powers and duties under this part 2 and part 3 of this article. The authority shall submit any such transfer or loan request to the executive director for approval. The authority shall not transfer or loan moneys from the CollegeInvest fund to the prepaid expense trust fund or to any fund created for the implementation of the college savings program unless such transfer or loan is approved by the executive director.

History

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26. L. 2003: (4) added, p. 552, § 1, effective August 6. L. 2004: Entire section amended, p. 564, § 11, effective July 1.

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23-3.1-205.5. CollegeInvest - enterprise status.

Statute text

(1) CollegeInvest shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as CollegeInvest retains the ability to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (1), CollegeInvest shall not be subject to any provisions of section 20 of article X of the state constitution. Agreements between CollegeInvest and the student loan division in the department of higher education for the guarantee of payment of student loans are not grants for purposes of the definition of enterprise under section 20 (2) (d) of article X of the state constitution.

(2) For purposes of part 2 of article 72 of title 24, C.R.S., the records of CollegeInvest and the board shall be public records, as defined in section 24-72-202 (6), C.R.S., except to the extent otherwise specified by law, regardless of whether CollegeInvest and the board constitute an enterprise pursuant to subsection (1) of this section.

History

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26. L. 2004: Entire section amended, p. 565, § 12, effective July 1.

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23-3.1-205.7. Department of higher education - executive director - powers and duties.

Statute text

In addition to any other powers and duties specifically granted by law, the executive director shall have such powers and duties as are not otherwise granted to the authority in this part 2 and in part 3 of this article, and shall also have all powers and duties necessary to oversee the authority, including, but not limited to, its management and direction.

History

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26.

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23-3.1-206. General powers and duties of the authority.

Statute text

(1) In addition to any other powers and duties specifically granted to the authority in this part 2, the authority has the following powers:

(a) (Deleted by amendment, L. 2000, p. 1276, § 7, effective May 26, 2000.)

(b) To adopt and from time to time amend or repeal policies for the regulation of its affairs and the conduct of its business, consistent with the provisions of this part 2;

(c) to (e) (Deleted by amendment, L. 2000, p. 1276 § 7, effective May 26, 2000.)

(f) To borrow money and issue bonds, notes, bond anticipation notes, or other obligations and to fund or refund such obligations as provided in this part 2;

(g) Subject to the approval of the executive director, to engage the services of private consultants and legal counsel and to otherwise contract with providers to render professional and technical assistance, advice, and other services in carrying out the purposes of this part 2 and part 3 of this article without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.;

(h) To make or participate in the making of student obligations or institutional loans;

(i) To purchase or participate in the purchase of student obligations;

(j) To sell or participate in the sale of student obligations;

(k) Subject to the approval of the executive director, to collect and pay reasonable fees and charges in connection with making, purchasing, originating, disbursing, and servicing or causing to be made, purchased, originated, disbursed, or serviced student obligations or institutional loans by the authority, including payment to the division for services performed for the authority and pursuant to part 3 of this article without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.;

(l) To procure insurance, guarantees, or other credit support with respect to all student obligations made or purchased or all institutional loans made by the authority;

(m) To consent, whenever it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any student obligation to which the authority is a party, but no such consent shall be made or given if its effect would be to obviate insurance coverage with respect to any student obligation;

(n) To make and execute contracts, including advance payment contracts with purchasers and all other instruments necessary or convenient for the exercise of its powers and functions under this part 2;

(o) To do all things necessary and convenient to carry out the purposes of this part 2 and in connection with the servicing of student obligations by the authority including sale, public or private, to the student loan marketing association or any successor organization;

(p) to (r) (Deleted by amendment, L. 2000, p. 1276, § 7, effective May 26, 2000.)

(s) To establish policies, procedures, and criteria to implement and administer the prepaid expense program;

(t) To assure that nothing shall cause the authority to exceed the limitations prescribed in section 23-3.1-205.5; and

(u) (l) At times prescribed by the department of revenue, but not less frequently than annually, to certify to the department of revenue information regarding persons who owe a loan repayment to the division, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to 39-21-108 (3), C.R.S., or which has been reduced to judgment.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(III) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the division.

(2) No actions taken by the authority pursuant to this section shall be interpreted to constitute or become an indebtedness, a debt, or a liability of the state, nor shall any actions taken by the authority be interpreted to constitute the giving, pledging, or loaning of the full faith and credit of the state.

History

Source: L. 79: Entire article added, p. 815, § 1, effective July 1. L. 84: (1)(h) to (1)(l) amended, p. 625, § 21, effective April 10. L. 96: (1)(g) and (1)(n) amended and (1)(p) to (1)(s) added, p. 423, § 3, effective April 22. L. 2000: Entire section added, p. 1276, § 7, effective May 26. L. 2002: (1)(u) added, p. 101, § 5, effective August 7. L. 2004: (1)(h), (1)(k), and (1)(l) amended, p. 566, § 13, effective July 1.

Annotations

ANNOTATION

Annotations

C.J.S. See 14A C.J.S., Colleges and Universities, § 17.

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23-3.1-206.5. Origination, disbursement, and servicing of student obligations and institutional loans.

Statute text

(1) (Deleted by amendment, L. 2004, p. 566, § 14, effective July 1, 2004.)

(2) The authority may contract with the division to originate, disburse, or service student obligations made or purchased by the authority.

History

Source: L. 84: Entire section added, p. 625, § 22, effective April 10. L. 2004: Entire section amended, p. 566, § 14, effective July 1.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-206.7. Prepaid expense program.

23-3.1-206.7. Prepaid expense program.

Statute text

(1) The authority shall develop and administer, in accordance with this part 2, the Colorado prepaid postsecondary education expense program, which program is hereby created. Through the prepaid expense program, all or part of tuition or other costs, as determined by the authority, may be paid in advance of or accumulated toward enrollment at institutions of higher education.

(2) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(3) No purchaser or qualified beneficiary participating in the prepaid expense program shall be classified as a resident for tuition purposes as a result of such participation. Purchasers and qualified beneficiaries shall be required to establish residency status based on the requirements of the state institution at which the qualified beneficiary is seeking to enroll.

(4) The selection by a purchaser in an advance payment contract of a particular state institution shall not in any way constitute a promise or guarantee that a qualified beneficiary will be admitted to any particular state institution or other institution of higher education or allowed to continue enrollment in or graduate from any state institution or other institution of higher education.

(5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. The prepaid expense trust fund shall consist of moneys remitted by purchasers, moneys acquired from governmental and private sources, and general fund appropriations, if any. In addition, the prepaid expense trust fund may include any moneys transferred or loaned thereto pursuant to section 23-3.1-205.4. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. On May 26, 2000, the prepaid expense trust fund, and all moneys in said fund, including all interest and earnings in said fund shall be transferred with the authority as provided in section 23-3.1-205.3. All moneys remitted by purchasers and other moneys received by the authority in connection with the prepaid expense program shall be transmitted by the authority to the state treasurer and credited to the prepaid expense trust fund. The state treasurer shall invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority and in a manner appropriate to carry out the prepaid expense program. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(c) The state treasurer shall maintain on behalf of the authority the prepaid expense trust fund as a separate fund. The state treasurer shall credit all moneys remitted to the state treasurer by the authority as provided in paragraph (a) of this subsection (5) to the prepaid expense trust fund.

(d) (I) The authority shall evaluate the actuarial soundness of the prepaid expense trust fund if, on the last day of the fiscal year, the aggregate amount of moneys of the prepaid expense trust fund invested in any of the following forms of investment exceeds ten percent of the market value of investable assets of the prepaid expense trust fund:

(A) Common or preferred stock; or

(B) Corporate bonds, notes, or debentures that are convertible into common or preferred stock; or

(C) Investment trust shares.

(II) The authority may contract with a private consultant or consultants to perform an actuarial evaluation of the prepaid expense trust fund and to provide financial advice to the authority in connection with the prepaid expense trust fund. Any actuarial report and written financial advice shall be provided by the authority to the state treasurer. If, based upon an actuarial evaluation, the authority determines that the prepaid expense trust fund is not actuarially sound, the authority may direct the state treasurer to distribute the available assets of the prepaid expense trust fund in a manner permitted by outstanding advance payment contracts. In connection with the evaluation of the prepaid expense trust fund, a calculation based on key assumptions approved by the board shall be made by or on behalf of the authority to determine whether an excess amount exists in the prepaid expense trust fund. If, based on this calculation, the authority determines that an excess amount exists in the prepaid expense trust fund, the authority shall calculate, by dividing such excess amount by the total number of expected tuition units in the prepaid expense trust fund, the portion of such excess amount that would be attributable on a pro rata basis to each such expected tuition unit. At the time the value of any tuition units under an advance payment contract is disbursed from the prepaid expense trust fund during the academic year immediately following such calculation, the portion of the excess amount attributable to such tuition units as a result of the calculation made pursuant to this paragraph (d) shall be paid as part of such disbursement. The excess amount shall otherwise remain in the prepaid expense trust fund as a part of the stabilization reserve.

(e) (I) All expenses of the authority incurred in developing and administering the prepaid expense program shall be payable from the prepaid expense trust fund. The authority may use moneys in the prepaid expense trust fund to reimburse the expenses of the authority incurred in connection with the development and administration of the prepaid expense program. In no event shall annual administration expenses of the authority exceed one percent of the contract price. Any recovery of development costs by the authority shall not include interest or finance charges. Any moneys in the prepaid expense trust fund that are not needed for immediate use by the authority shall be invested by the state treasurer in accordance with paragraph (a) of this subsection (5) and with the actuarial report provided by the authority and in investments permitted by section 23-3.1-216 (1) and (3). The authority shall determine the amount of moneys in the fund that shall be invested and shall notify the state treasurer in writing of such amount.

(II) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(6) and (7) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(8) If, at any time, the authority determines that the prepaid expense program, or any aspect thereof, is not financially sound, the authority may discontinue permanently or for a period of time the prepaid expense program or that particular aspect of the program and the execution of additional advance payment contracts. The state treasurer shall continue to invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall continue to make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority for the benefit of existing purchasers and qualified beneficiaries except as otherwise authorized.

History

Source: L. 96: Entire section added, p. 423, § 4, effective April 22. L. 98: (5)(a) amended, p. 213, § 4, effective August 5. L. 2000: Entire section amended, p. 1278, § 8, effective May 26. L. 2003: (5)(a) amended, p. 553, § 3, effective August 6. L. 2004: (1), (5)(a), (5)(d), and (8) amended, p. 566, § 15, effective July 1.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-207. Notes.

23-3.1-207. Notes.

Statute text

(1) The authority may issue from time to time its negotiable notes for any of its purposes as provided in this part 2, including purchase of student obligations or the making of student obligations or institutional loans, and may renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds.

(2) Any resolution authorizing notes of the authority or any issue of such notes may contain any provisions which the authority is authorized to include in any resolution authorizing bonds of the authority or any issue of bonds, and the authority may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds.

(3) All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available for such payment and not otherwise pledged, subject only to

any contractual rights of the holders of any of its notes or other obligations outstanding at the time of issuance of such notes.

History

Source: L. 79: Entire article added, p. 816, § 1, effective July 1. L. 84: (1) amended, p. 626, § 23, effective April 10. L. 2004: (1) amended, p. 568, § 16, effective July 1.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-208. Bonds.

23-3.1-208. Bonds.

Statute text

(1) (a) The authority may issue from time to time its bonds for its purposes as provided in this part 2, including but not limited to purchasing or making student obligations or making institutional loans, but the authority shall not have outstanding, at any one time, bonds, not including bond anticipation notes that have been refunded and bonds that have been refunded, in an aggregate principal amount exceeding one billion three hundred million dollars. The authority may not undertake the financing of the making or purchasing of student obligations unless, prior to the issuance of any bonds or notes, the board finds that there is insufficient access to student obligations from normal private market sources and that such financing will help alleviate such insufficient access.

(b) (Deleted by amendment, L. 2004, p. 568, § 17, effective July 1, 2004.)

(c) In anticipation of the sale of its bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available for payments and not otherwise pledged or from proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The bond anticipation notes shall be issued in the same manner as bonds. Such notes and the resolution authorizing them may contain any provisions, conditions, or limitations which a bond resolution of the authority contains.

(2) (a) All bonds issued by the authority shall be payable solely out of the revenues and receipts of the authority as designated in the resolution of the authority under which the bonds are authorized to be issued or as designated in a trust indenture authorized by the authority which shall name a bank or trust company as trustee or out of other moneys available for payments and not otherwise pledged.

(b) Bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state of Colorado, may bear

interest at such fixed or variable rate or rates per annum as determined by the authority or in accordance with methods approved by the authority without regard to any interest rate limitation appearing in any other law of this state, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either an officer of the authority or an officer of the trustee authenticating the same, may be in the form of coupon bonds which have attached interest coupons bearing the facsimile signature of an authorized officer of the authority, and may contain such provisions not inconsistent with this part 2, all as provided in the resolution of the authority under which the bonds are authorized to be issued or as provided in a trust indenture authorized by the authority.

(3) If deemed advisable by the authority, there may be retained in the resolution or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part of said bonds as may be specified in such resolution or in such trust indenture, at such price or prices and on such terms and conditions as may be set forth in such resolution or in such trust indenture. Nothing in this part 2 shall be construed to confer on the authority the right or option to redeem any bonds except as provided in the resolution or in such trust indenture under which they are issued.

(4) The bonds or notes of the authority may be sold at public or private sale for such price or prices, in such manner, and at such times as determined by the authority, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance of bonds or notes. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive officer by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(5) (a) Any outstanding bonds of the authority may be refunded or advance refunded at any time and from time to time by the authority by the issuance of its bonds for such purpose in a principal amount determined by the authority, which may include interest accrued or to accrue with or without giving effect to investment income and other expenses necessary to be paid in connection with such issuance.

(b) (I) Any such refunding may be effected whether the bonds to be refunded have then matured or will mature thereafter, either by sale of the refunding bonds and the application of the proceeds of such sale for the payment of the bonds to be refunded or by the exchange of the refunding bonds for the bonds to be refunded with the consent of the holders of the bonds to be so refunded, regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or are due serially or otherwise.

(II) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may be applied, in the discretion of the authority, to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and, pending such application, may be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested and reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such time or times as are appropriate to assure the prompt payment as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profit, if any, earned or realized on any such investment may also be applied, in the

discretion of the authority, to the payment of the outstanding bonds or notes to be so refunded or to the payment of principal and interest on the refunding bonds or for any other purpose under this part 2. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments may be returned to the authority for use by it in any lawful manner.

(c) All such refunding bonds shall be subject to the provisions of this part 2 in the same manner and to the same extent as other bonds issued pursuant to this part 2.

(6) The proceeds of any bonds, notes, bond anticipation notes, or other obligations may be used and applied to the payment of financing costs, including legal, underwriting and investment banking, accounting, and other similar costs; the funding of any reserve funds deemed necessary or advisable by the authority; interest on such bonds, notes, bond anticipation notes, or other obligations for a period not to exceed three years; and all other necessary and incidental costs and expenses.

History

Source: L. 79: Entire article added, p. 816, § 1, effective July 1. L. 81: (1)(a) amended, p. 1090, § 2, effective May 28. L. 83: (1)(a) amended, p. 785, § 2, effective April 29. L. 84: (1) R&RE, p. 626, § 24, effective April 10. L. 89: (5)(b)(II) amended, p. 1108, § 12, effective July 1. L. 92: (1)(a) amended, p. 586, § 1, effective March 4. L. 2000: (1)(a) amended, p. 130, § 1, effective August 2. L. 2004: (1), (2), and (3) amended, p. 568, § 17, effective July 1.

Annotations

ANNOTATION

Annotations

C.J.S. See 14A C.J.S., Colleges and Universities, §§ 10, 14.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-209. Negotiability of bonds.

23-3.1-209. Negotiability of bonds.

Statute text

All bonds and any interest coupons applicable to such bonds are hereby declared and shall be construed to be negotiable instruments.

History

Source: L. 79: Entire article added, p. 818, § 1, effective July 1. L. 84: Entire section amended, p. 627, § 25, effective April 10.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-210. Security for bonds and notes.

23-3.1-210. Security for bonds and notes.

Statute text

(1) (a) The principal and interest on any bonds or notes issued by the authority may be secured by a trust indenture by and between the authority and a corporate trustee. Such trust indenture or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the authority, including, without limitation, student obligations, student obligation commitments, institutional loans, moneys deposited or pledged by or on behalf of one or more institutions of higher education, moneys deposited or pledged by the division, temporary loans, contracts, agreements, and other security or investment obligations, the fees or charges made or received by the authority, the moneys received in payment of student obligations and institutional loans and interest on such moneys, including the proceeds of insurance on such obligations and loans and any other moneys received or due to be received by the authority.

(b) Such trust indenture or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any of the bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the purposes to which proceeds of the bonds or notes may be applied, the disposition or pledging of the revenues or assets of the authority, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. Any such trust indenture or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by any such holders.

(c) In addition, any such trust indenture or resolution may contain such other provision as the authority may deem reasonable and proper for the security of the holders of any bonds or notes, including but not limited to provisions for insurance, letters of credit, standby credit agreements, take-out commitments, or other forms of credit insuring against default or guaranteeing timely payment with respect to student obligations, institutional loans, or bonds. All expenses incurred in carrying out the provisions of such indenture or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the authority.

(2) (a) Any pledge made by the authority, by one or more institutions of higher education, by a nonprofit corporation acting on behalf of one or more institutions of higher education, or by the division shall be valid and binding from the time when the pledge is made. The revenues and moneys so pledged and thereafter received by or otherwise credited to such pledging parties shall immediately be subject to lien of such pledge without any physical delivery, filing, or further act, and the lien of such pledge shall have priority over any and all other obligations and liabilities of such pledging parties, subject to any contractual covenants by the pledging parties and any prior pledges and liens, and shall be valid,

binding, and enforceable against all parties having claims of any kind in tort, contract, or otherwise against such pledging parties, irrespective of whether such claiming parties have notice of such lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, and indenture made for the benefit or security of any of the bonds of the authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same are made has been fully paid or provision for such payment duly made.

(b) In the event of default in any such payment or in any agreements of the authority made as part of the contract under which the bonds were issued, whether contained in the resolution authorizing the bonds or in any trust indenture executed as security for such bonds, said payment or agreement may be enforced by suit, mandamus, or either of such remedies.

(3) Any bank or trust company that may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as required by the authority.

History

Source: L. 79: Entire article added, p. 818, § 1, effective July 1. L. 84: (1)(a), (1)(c), and (2)(c) amended, p. 627, § 26, effective April 10. L. 2004: (1)(a), (1)(c), (2), and (3) amended, p. 570, § 18, effective July 1.

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Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-211. Personal liability.

23-3.1-211. Personal liability.

Statute text

Neither the members of the board, employees or agents of the authority, nor any person executing the bonds or notes or advance payment contracts shall be liable personally on bonds or notes or advance payment contracts or be subject to any personal liability or accountability by reason of the issuance thereof or as a result of the prepaid expense program.

History

Source: L. 79: Entire article added, p. 820, § 1, effective July 1. L. 96: Entire section amended, p. 427, § 5, effective April 22. L. 2000: Entire section amended, p. 1282, § 9, effective May 26. L. 2004: Entire section amended, p. 572, § 19, effective July 1.

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23-3.1-212. Purchase.

Statute text

The authority may purchase its bonds or notes out of any available funds. The authority may hold, pledge, cancel, or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders.

History

Source: L. 79: Entire article added, p. 820, § 1, effective July 1.

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23-3.1-213. Payment of bonds and advance payment contracts - limited liability of state.

Statute text

(1) Bonds and notes issued by the authority shall be payable solely from the funds provided for in this part 2 and shall not otherwise constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state otherwise be liable on such bonds and notes, nor shall such bonds or notes constitute the giving, pledging, or loaning of the full faith and credit of the state. The issuance of bonds or notes under the provisions of this part 2 shall not obligate the state or empower the authority, directly, indirectly, or contingently, to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and such appropriation, levy, or collection is prohibited.

(2) Nothing in this part 2 shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado; and all bonds issued by the authority pursuant to the provisions of this part 2 are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture executed as security for such bonds and are not otherwise a debt or liability of the state of Colorado.

(3) Except as otherwise provided in this part 2, the state shall not be liable in any event for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, obligation, or agreement of any kind whatsoever that may be undertaken by the authority. No breach of

any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state, except from funds specifically pledged by the state, or any charge upon its general credit or against its taxing power.

(4) Except as otherwise provided in this part 2, advance payment contracts and the benefits due thereunder shall be payable solely from the moneys in the prepaid expense trust fund, and shall not otherwise constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state otherwise be liable on such advance payment contracts, nor shall such advance payment contracts constitute the giving, pledging, or loaning of the full faith and credit of the state. Advance payment contracts and the benefits due thereunder shall be payable by the authority solely from moneys in the prepaid expense trust fund and are not payable from or secured in any way by other moneys or accounts of the authority.

History

Source: L. 79: Entire article added, p. 820, § 1, effective July 1. L. 96: (4) added, p. 428, § 6, effective April 22. L. 2000: Entire section amended, p. 1282, § 10, effective May 26.

Annotations

ANNOTATION

Annotations

C.J.S. See 14A C.J.S., Colleges and Universities, § 17.

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23-3.1-214. Exemption from taxation - securities law.

Statute text

The income or other revenues of the authority, including income earned on the investment of moneys in the prepaid expense and the savings trust funds, all properties at any time owned by the authority, any bonds, notes, or other obligations issued pursuant to this part 2, the transfer of and the income, including any profit made on sale, from any such bonds, notes, or other obligations, and all trust indentures and other documents issued in connection with such bonds, notes, or other obligations shall be exempt at all times from all taxation and assessments in the state of Colorado. In the bond resolution authorizing the issuance of any bonds by the authority, the board may waive the exemption from federal income taxation for interest on such bonds. Bonds issued by the authority shall also be exempt from the provisions of article 51 of title 11, C.R.S.

History

Source: L. 79: Entire article added, p. 820, § 1, effective July 1. L. 83: Entire section amended, p. 785, § 3, effective April 29. L. 96: Entire section amended, p. 428, § 7, effective April 22.

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23-3.1-215. Fees.

Statute text

All expenses of the authority incurred in carrying out the provisions of this part 2 shall be payable solely from funds provided under the authority of this part 2, and no liability shall be incurred by the authority beyond the moneys which are provided pursuant to this part 2. For the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided pursuant to this part 2, the authority may borrow such moneys as may be required for the necessary expenses of organization and operation. Such borrowed moneys shall be repaid within a reasonable time after the authority receives funds provided pursuant to this part 2.

History

Source: L. 79: Entire article added, p. 821, § 1, effective July 1.

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23-3.1-216. Investment of funds.

Statute text

(1) Funds of the authority, including the moneys held in the CollegeInvest fund created in section 23-3.1-205.4, may be invested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.; in certificates of deposit or time deposits constituting direct obligations of any bank or savings and loan association in Colorado that may be made only in those certificates of deposit or time deposits in banks or savings and loan associations that are insured by the federal deposit insurance corporation or its successor and may not exceed the maximum of such insurance unless such banks or savings and loan associations are eligible public depositories and such excess is secured by a pledge of eligible collateral as required by either article 10.5 or article 47 of title 11, C.R.S.; or in obligations of the

student loan marketing association or any successor organization. Any such securities may be purchased at the offering or market price at the time of such purchase. Funds of the authority may be invested with such maturities as determined by the state treasurer, based upon the advice and recommendations of the authority, if such maturities are on a date or dates prior to the time when, in the judgment of the state treasurer, based upon the advice and recommendations of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.

(2) The board may direct a corporate trustee that holds funds of the authority pursuant to a trust indenture between such trustee and the authority to invest or reinvest such funds in any investments, other than those specified in subsection (1) of this section, if the board determines by resolution, including but not limited to a bond resolution, that:

(a) Such investment meets the standard for investments established in section 15-1-304, C.R.S.;

(b) The income on such investment is at least comparable to income then available on the investments permitted in subsection (1) of this section; and

(c) Such investment will assist the authority in alleviating an insufficient access to student obligations from normal private market sources.

(3) In addition to the investments otherwise permitted in this part 2, the state treasurer may invest moneys in the prepaid expense trust fund in the following:

(a) State and municipal bonds;

(b) Corporate notes, bonds, and debentures, whether or not convertible, to the extent provided for in paragraph (d) of this subsection (3);

(c) Participation agreements with life insurance companies;

(d) Common or preferred stock; except that:

(I) No investment of moneys in the prepaid expense trust fund in common or preferred stock, or both, of any corporation shall be of an amount that exceeds five percent of the market value of investable assets of the trust fund; except that, such amount may exceed five percent, for a period not to exceed sixty consecutive days;

(II) The prepaid expense trust fund shall not acquire more than five percent of the outstanding stock or bonds of any single corporation; and

(III) The aggregate amount of moneys of the prepaid expense trust fund invested in common or preferred stock, or in corporate bonds, notes, or debentures that are convertible into common or preferred stock, or in investment trust shares shall not exceed sixty percent of the market value of investable assets of the prepaid expense trust fund; except that such market value of investable assets may exceed sixty percent, by not more than five percent, for a period not to exceed sixty consecutive days;

(d.5) Investments in the form of mutual funds; and

(e) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if the board determines by resolution that:

(I) Such contract or agreement meets the standard for investments established in section 15-1-304, C.R.S.;

(II) The income on such contract or agreement is at least comparable to the income then available on the other investments permitted in this section; and

(III) Such contract or agreement will assist the authority in maintaining an actuarially sound trust fund.

History

Source: L. 79: Entire article added, p. 821, § 1, effective July 1. L. 81: Entire section amended, p. 1090, § 3, effective May 28. L. 83: Entire section amended, p. 786, § 4, effective April 29. L. 89: (1) amended, p. 1108, § 13, effective July 1. L. 96: (3) added, p. 428, § 8, effective April 22. L. 2000: Entire section amended, p. 1283, § 11, effective May 26. L. 2004: (1) amended, p. 153, § 65, effective July 1; (1) amended, p. 572, § 20, effective July 1.

Annotations

Editor's note: Amendments to subsection (1) by House Bill 04-1126 and House Bill 04-1350 were harmonized.

Annotations

ANNOTATION

Annotations

C.J.S. See 14A C.J.S., Colleges and Universities, § 14.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-217. Proceeds as trust funds.

23-3.1-217. Proceeds as trust funds.

Statute text

Except as otherwise provided in this part 2, all moneys received pursuant to this part 2, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, including moneys received under advance payment contracts shall be deemed to be trust funds to be held and applied solely as provided in this part 2. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this

part 2, subject to such policies and guidelines as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust indenture securing such obligations provides.

History

Source: L. 79: Entire article added, p. 821, § 1, effective July 1. L. 96: Entire section amended, p. 429, § 9, effective April 22. L. 2000: Entire section amended, p. 1285, § 12, effective May 26.

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23-3.1-217.5. Claims of creditors - exemption.

Statute text

Moneys credited to or expended from the prepaid expense trust fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract made under this part 2, which contract has not been terminated, are exempt from all claims of creditors of the purchaser, the qualified beneficiary, or the authority.

History

Source: L. 96: Entire section added, p. 429, § 10, effective April 22. L. 2000: Entire section amended, p. 1285, § 13, effective May 26.

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Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-218. Agreement of the state not to limit or alter rights of obligees.

23-3.1-218. Agreement of the state not to limit or alter rights of obligees.

Statute text

The state hereby pledges to and agrees with the holders of any bonds, notes, or other obligations issued under this part 2 and with those parties who may enter into contracts with the authority, with state-supported institutions of higher education, or with the division pursuant to the provisions of this part 2 that the state will not limit, alter, restrict, or impair the rights vested in the authority to fulfill the terms of any agreements made with the holders of bonds, notes, or other obligations authorized and issued

pursuant to this part 2 and with the parties who may enter into contracts with the authority pursuant to this part 2, and that the state will not limit, alter, restrict, or impair the rights vested in any state-supported institution of higher education or in the division to fulfill the terms of any contracts made with the authority and with the parties who may enter into contracts with such institutions of higher education or with the division pursuant to this part 2. The state further agrees that it will not in any way impair the rights or remedies of the holders of such bonds, notes, or other obligations of such parties until such bonds, notes, and other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged and such contracts are fully performed on the part of the authority, the state-supported institutions of higher education, or the division. Nothing in this part 2 precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes, or other obligations of the authority or those entering into such contracts with the authority or the authority under any contract with a state-supported institution of higher education or with the division. The authority may include this pledge and undertaking for the state in such bonds, notes, or other obligations and in such contracts.

History

Source: L. 79: Entire article added, p. 821, § 1, effective July 1. L. 84: Entire section amended, p. 628, § 27, effective April 10.

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Source:

Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-219. Enforcement of rights of bondholders.

23-3.1-219. Enforcement of rights of bondholders.

Statute text

Any holder of bonds issued pursuant to this part 2 or a trustee under a trust agreement or trust indenture entered into pursuant to this part 2, except to the extent that his rights are restricted by any bond resolution, may protect and enforce, by any suitable form of legal proceedings, any rights under the laws of this state or granted by the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by this part 2 or the bond resolution and to enjoin unlawful activities.

History

Source: L. 79: Entire article added, p. 822, § 1, effective July 18.

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Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-220. Bonds eligible for investment.

23-3.1-220. Bonds eligible for investment.

Statute text

All banks, bankers, trust companies, savings and loan associations, investment companies, insurance companies and associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds, notes, or other obligations, issued pursuant to this part 2. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds, notes, or other obligations only if said bonds, notes, or other obligations satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

History

Source: L. 79: Entire article added, p. 822, § 1, effective July 1. L. 89: Entire section amended, p. 1127, § 59, effective July 1. L. 2004: Entire section amended, p. 572, § 21, effective July 1.

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Colorado Statutes/TITLE 23 HIGHER EDUCATION AND VOCATIONAL TRAINING/STATE UNIVERSITIES AND COLLEGES/General and Administrative/ARTICLE 3.1 STUDENT LOAN PROGRAM/PART 2 STUDENT OBLIGATIONS AND AUTHORITY LOANS/23-3.1-221. Account of activities - receipts for expenditures - report - audit.

23-3.1-221. Account of activities - receipts for expenditures - report - audit.

Statute text

The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall report annually on such activities, receipts, and expenditures in the month of February to its members, to the governor, to the commission, and to the state auditor in a form prescribed by the controller. Also included in the report shall be any recommendations with reference to additional legislation, a financial analysis of the actuarial soundness of the prepaid expense trust fund if one was prepared, an accounting of any loans or transfers approved pursuant to section 23-3.1-205.4 (4), and other action that may be necessary to carry out the purposes of the authority. The state auditor may investigate the affairs of the authority and may examine the properties and records of the authority, and the controller may prescribe methods of accounting and the rendering of periodical reports in relation to undertakings by the authority. The department of higher education shall adopt and prepare a budget for the authority for the next fiscal year. Beginning July 1, 2000, the fiscal year of the authority shall begin on July 1 and shall end on June 30. The authority shall not be required to comply with fiscal rules of the state of Colorado until July 1, 2000.

History

Source: L. 79: Entire article added, p. 822, § 1, effective July 1. L. 81: Entire section amended, p. 341, § 5, effective March 29; entire section amended, p. 1091, § 4, effective May 28. L. 96: Entire section amended, p. 430, § 11, effective April 22. L. 2000: Entire section amended, p. 1286, § 14, effective May 26. L. 2003: Entire section amended, p. 552, § 2, effective August 6. L. 2004: Entire section amended, p. 572, § 22, effective July 1.

Annotations

Editor's note: Amendments to this section in House Bill 81-1215 and House Bill 81-1020 were harmonized.

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23-3.1-222. Federal social security act.

Statute text

The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal "Social Security Act", as from time to time amended.

History

Source: L. 79: Entire article added, p. 822, § 1, effective July 1.

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23-3.1-223. Powers of authority not restricted.

Statute text

This part 2 shall not be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state but shall be construed as cumulative of any such powers. Nothing in this part 2 shall be construed to deprive the state and its political subdivisions of their respective police powers over properties of the authority or to impair any power over such

properties of any official or agency of the state and its governmental subdivisions which may be otherwise provided by law.

History

Source: L. 79: Entire article added, p. 822, § 1, effective July 1.

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