

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title; references to Act.

(a) Short title. This Act may be cited as the Educational Planning Services Consumer Protection Act.

(b) References to Act. This Act may be referred to as the Segura Law.

Section 5. Findings. The General Assembly finds and declares all of the following:

(1) It is in the interest of this State to protect Illinois residents and their families from the predatory and deceptive practices of certain educational planning service providers. It is in the public interest to protect all Illinois families, but particularly the most vulnerable families, those who are of lower income, and those without prior college-going experience, from costly, deceptive, and predatory practices that have proliferated as the cost of postsecondary education has risen and anxiety about student loan debt has grown.

(2) By charging an upfront premium, these entities can leave these most vulnerable families little or no recourse if they receive no services or if the services that they

receive are inadequate. Additionally, many of the services offered by for-profit entities at a premium are readily available at no charge to all students through programs offered by public and not-for-profit organizations, such as the Illinois Student Assistance Commission, a local library, or an institution of higher learning.

(3) Families with little knowledge of the college planning process, few financial resources, limited English proficiency, or a combination of these factors are particularly vulnerable to high pressure tactics that may be used to induce them to sign lengthy, highly technical, and costly contracts. Currently, there is no adequate recourse available to help families who have been victimized by opportunistic bad actors.

(4) Some educational planning service providers have also provided legally questionable guidance to families who would like to reduce their higher education costs but would not typically qualify for grants based on financial need. Families have been counseled by disreputable educational planning service providers to take extreme and deceptive measures, such as relinquishing their parental responsibilities through a court-ordered legal guardianship so that the child qualifies as an independent student, thereby basing a need calculation on only the student's financial information, allowing the student to qualify for need-based aid.

(5) Unrestrained, these types of deceptive practices are a barrier to higher education access and to the ideals of diversity, equity, and inclusion in higher education in this State, and it is in the public interest to regulate them. The Segura Law would be the first step in providing recourse and thereby security to aspiring Illinois college students and their families.

Section 10. Purpose and construction. The purpose of this Act is to protect consumers who enter into agreements with educational planning service providers and to regulate educational planning service providers. This Act shall be construed as a consumer protection law for all purposes. This Act shall be liberally construed to effectuate its purpose.

Section 15. Definitions. As used in this Act:

"Consumer" means any person who purchases or contracts for the purchase of educational planning services.

"Educational planning services" means college and career preparatory planning services, including, but not limited to, advice regarding and assistance with college and career searches; college application preparation or submission; financial aid application planning, preparation, or submission; and scholarship searches and applications.

"Educational planning service provider" means any person or entity engaging in or holding itself out as engaging in the

business of providing educational planning services in exchange for any fee or compensation or any person who solicits or acts on behalf of any person or entity engaging in or holding itself out as engaging in the business of providing educational planning services in exchange for any fee or compensation. "Educational planning service provider" does not include any of the following:

(1) A not-for-profit or public institution of higher learning, as defined in the Higher Education Student Assistance Act, and the individuals employed by that institution where educational planning services are provided as part of the financial aid or career counseling services offered by the institution.

(2) Public entities and their officers while acting in their official capacities.

(3) Persons acting on behalf of a consumer under court order or as a legal representative.

"Enrollment fee" or "set up fee" means any fee, obligation, or compensation paid or to be paid by the consumer to an educational planning service provider in consideration of or in connection with establishing a contract or other agreement with a consumer related to the provision of educational planning services.

"Maintenance fee" means any fee, obligation, or compensation paid or to be paid by the consumer on a periodic basis to an educational planning service provider in

consideration for maintaining the relationship and services to be provided by the educational planning service provider in accordance with a contract with a consumer related to the provision of educational planning services.

Section 20. Prohibitions and requirements.

(a) It shall be unlawful for any person or entity to act as an educational planning service provider except as authorized by this Act.

(b) An educational planning service provider may not provide educational planning services to a consumer for a fee without a written contract signed and dated by both the consumer and the educational planning service provider. A contract between an educational planning service provider and a consumer for the provision of educational planning services shall disclose clearly and conspicuously all of the following:

(1) The name and address of the consumer.

(2) The date of execution of the contract.

(3) The legal name of the educational planning service provider, including any other business names used by the educational planning service provider.

(4) The corporate address and regular business address, including a street address, of the educational planning service provider.

(5) The telephone number at which the consumer may speak with a representative of the educational planning

service provider during normal business hours.

(6) A description of the services and an itemized list of all fees to be paid by the consumer for each service and the date, approximate date, or circumstances under which each fee will become due.

(7) The contents of the Consumer Notice and Rights Form provided in Section 25 of this Act.

(8) A written notice to the consumer that the consumer may cancel the contract at any time until after the educational planning service provider has fully performed each service the educational planning service provider contracted to perform or represented he or she would perform and that the consumer may not be required to pay for services the consumer did not receive and shall be entitled to a full refund of any fees paid for educational planning services not provided.

(9) A form the consumer may use to cancel the contract pursuant to this Act. The form shall include the name and mailing address of the educational planning service provider and shall disclose clearly and conspicuously how the consumer can cancel the contract, including applicable addresses, telephone numbers, facsimile numbers, and electronic mail addresses the consumer can use to cancel the contract. Notwithstanding any other provision of this paragraph (9) to the contrary, a consumer's lack of strict adherence to an educational planning service provider's

cancellation form or processes does not invalidate a consumer's good faith and reasonable method or form of cancellation.

(c) If an educational planning service provider communicates with a consumer primarily in a language other than English, then the educational planning service provider shall furnish to the consumer a translation of all the disclosures and documents required by this Act, including, but not limited to, the contract, in that other language.

(d) An educational planning service provider may not charge or receive from a consumer any enrollment fee, set up fee, up-front fee of any kind, or maintenance fee, and a consumer shall pay only for the educational planning services provided.

(e) An educational planning service provider may not do any of the following:

(1) Represent, expressly or by implication, any results or outcomes of its educational planning services in any advertising, marketing, or other communication to consumers unless the educational planning service provider possesses substantiation for such representation at the time such representation is made.

(2) Expressly or by implication, make any unfair or deceptive representations or any omissions of material facts in any of its advertising or marketing communications concerning educational planning services.

(3) Advertise or market educational planning services, enter into a contract for educational planning services, or provide educational planning services without making the disclosures required in this Act at the times and in the form and manner as described in this Act.

(4) Advise about or represent, expressly or by implication, any unlawful services to be provided or fees to be collected by the educational planning service provider.

(5) Advise or represent, expressly or by implication, that consumers pay any fees that are unearned by the educational planning service provider.

(6) Advise, encourage, or represent, expressly or by implication, that a consumer provide false or misleading information about financial or other circumstances to gain admission into a higher education institution or to be eligible for student financial aid, including, but not limited to, advising a consumer to petition for the appointment of a guardian for a minor for the primary purpose of reducing the financial resources available to the minor in order to cause the minor to qualify for public or private financial aid.

Section 25. Required disclosures.

(a) In any marketing or advertising communications, an education planning service provider must provide the following

disclosure verbatim, both orally and in writing, with the caption:

CONSUMER NOTICE OF AVAILABILITY
OF THESE SERVICES FOR FREE

Educational planning services of this type are provided free of charge at no cost to you by the Illinois Student Assistance Commission and may also be offered by other public or not-for-profit entities, such as a public library or an institution of higher learning.

(b) An educational planning service provider must provide the following warning verbatim, both orally and in writing, with the caption "CONSUMER NOTICE AND RIGHTS FORM" in at least 28-point font and the remaining portion in at least 14-point font, to a consumer before the consumer signs a contract for the educational planning service provider's services:

CONSUMER NOTICE AND RIGHTS FORM

AVAILABILITY OF THESE SERVICES FOR FREE

Educational planning services of this type are provided free of charge at no cost to you by the Illinois Student Assistance Commission and may be offered by other public or not-for-profit entities, such as a public library or an institution of higher learning.

YOUR RIGHT TO CANCEL

If you sign a contract with an educational planning service provider, you have the right to cancel at any time and receive a full refund of all unearned fees you have paid to the provider. You will not be responsible for payment of services that are not fully performed.

IF YOU ARE DISSATISFIED OR YOU HAVE QUESTIONS

If you are dissatisfied with an educational planning service provider or have any questions, please bring it to the attention of the Illinois Attorney General's Office.

(c) The educational planning service provider must maintain proof that it has provided to the consumer the Consumer Notice and Rights Form in accordance with subsection (b) of this Section.

(d) The consumer shall sign and date an acknowledgment form titled "Consumer Notice and Rights Form" that states: "I, the consumer, have received from the educational planning service provider a copy of the form titled "Consumer Notice and Rights Form," and I have been provided the Illinois Student Assistance Commission's Internet website address where educational planning services are provided free of charge.". The educational planning service provider or its representative shall also sign and date the acknowledgment

form, which shall include the name and address of the educational planning service provider. The acknowledgment form shall be in duplicate and shall be incorporated into the Consumer Notice and Rights Form under subsection (b) of this Section. The original acknowledgment form shall be retained by the educational planning service provider, and the duplicate copy shall be retained by the consumer.

(e) If the acknowledgment form under subsection (d) of this Section is in an electronic format, then, in addition to the other requirements of this Act, the acknowledgment form shall:

(1) contain a live link to the Illinois Student Assistance Commission's Internet website where educational planning services are offered free of charge; and

(2) be digitally signed by the consumer in compliance with the provisions of the federal Electronic Signatures in Global and National Commerce Act concerning consumer disclosures, including subsection (c) of Section 101 of that Act.

Section 30. Cancellation of contract; refund.

(a) A consumer may cancel a contract with an educational planning service provider at any time before the educational planning service provider has fully performed each service the educational planning service provider contracted to perform or represented it would perform.

(b) If a consumer cancels a contract with an educational planning service provider, then the educational planning service provider shall refund all fees and compensation, with the exception of any earned fees for services provided.

(c) At any time upon a material violation of this Act on the part of the educational planning service provider, the educational planning service provider shall refund all fees and compensation to the consumer.

(d) An educational planning service provider shall make any refund required under this Act within 5 business days after the notice of cancellation or voiding of the contract due to a violation of this Act and shall include with the refund a full statement of account showing fees received and fees refunded.

(e) Upon cancellation or voiding of the contract, all direct debit authorizations granted to the educational planning service provider by the consumer shall be considered revoked and voided.

(f) Upon the termination of the contract for any reason, the educational planning service provider shall provide timely notice that it no longer represents the consumer to any entity or agency with whom the educational planning service provider has had any prior communication on behalf of the consumer in connection with the provision of any educational planning services.

Section 35. Noncompliance.

(a) Any waiver by a consumer of any protection provided by or any right of the consumer under this Act:

(1) shall be treated as void; and

(2) may not be enforced by any federal or State court or any other person.

(b) Any attempt by a person to obtain a waiver from a consumer of any protection provided by or any right or protection of the consumer or any obligation or requirement of the educational planning service provider under this Act is a violation of this Act.

(c) Any contract for educational planning services that does not comply with the applicable provisions of this Act:

(1) shall be treated as void; and

(2) may not be enforced by any federal or State court or any other person.

Upon notice of a void contract, a refund by the educational planning service provider to the consumer shall be made as provided under subsections (c), (d), (e), and (f) of Section 30 of this Act.

Section 40. Civil remedies; injunction.

(a) A violation of this Act constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General or State's Attorney by the Consumer

Fraud and Deceptive Business Practices Act shall be available to him or her for the enforcement of this Act.

(b) A consumer who suffers loss by reason of a violation of this Act may bring a civil action in accordance with the Consumer Fraud and Deceptive Business Practices Act to enforce a provision of this Act. All remedies and rights granted to a consumer by the Consumer Fraud and Deceptive Business Practices Act shall be available to the consumer bringing such an action. The remedies and rights provided for in this Act are not exclusive, but cumulative, and all other applicable claims are specifically preserved.

(c) Any contract for educational planning services made in violation of this Act shall be null and void and of no legal effect.

(d) To engage in educational planning services in violation of this Act is declared to be inimical to the public welfare and to constitute a public nuisance. The Illinois Student Assistance Commission may, in the name of the people of the State of Illinois, through the Attorney General, file a complaint for an injunction in the circuit court to enjoin such person from engaging in that unlawful business. An injunction proceeding shall be in addition to and not in lieu of penalties and remedies otherwise provided in this Act.

Section 45. Notice. The Illinois Student Assistance Commission must make available on its Internet website the

most current disclosure of free support, and the educational planning service provider is responsible for providing to the consumer the most current disclosure of free support available on the Commission's Internet website.

Section 90. Rules. The Illinois Student Assistance Commission shall adopt and enforce all reasonable rules necessary or appropriate for the administration of this Act.

Section 900. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Section 2WWW as follows:

(815 ILCS 505/2WWW new)

Sec. 2WWW. Violations of the Educational Planning Services Consumer Protection Act. Any person who violates the Educational Planning Services Consumer Protection Act commits an unlawful practice within the meaning of this Act.