

CHAPTER 70

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 00-1276

BY REPRESENTATIVES Dean, Alexander, Allen, Hoppe, McElhany, McKay, Morrison, Pfiffner, Scott, Spence, Spradley, Stengel, Webster, and Young;
also SENATORS Owen, Lamborn, and Powers.

AN ACT

CONCERNING THE CONFIDENTIALITY OF RECORDS OF THE COLORADO STUDENT OBLIGATION BOND AUTHORITY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 23-3.1-225, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

23-3.1-225. Confidentiality of records. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL DATA, INFORMATION, AND RECORDS RELATING TO THE PREPAID EXPENSE TRUST FUND AND THE PREPAID EXPENSE PROGRAM ARE PUBLIC RECORDS AND ARE SUBJECT TO INSPECTION PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(2) THE FOLLOWING DATA, INFORMATION, AND RECORDS RELATING TO THE PREPAID EXPENSE TRUST FUND AND THE PREPAID EXPENSE PROGRAM SHALL BE KEPT CONFIDENTIAL BY THE AUTHORITY, AND THE AUTHORITY SHALL DENY THE RIGHT OF ACCESS TO OR INSPECTION OF SUCH DATA, INFORMATION, AND RECORDS EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION:

(a) DATA, INFORMATION, AND RECORDS RELATING TO INDIVIDUAL PURCHASERS AND QUALIFIED BENEFICIARIES OF ADVANCE PAYMENT CONTRACTS, INCLUDING ANY RECORDS THAT REVEAL PERSONALLY IDENTIFIABLE INFORMATION ABOUT SUCH INDIVIDUALS; EXCEPT THAT THE AUTHORITY MAY DISCLOSE SUCH INFORMATION TO AN INDIVIDUAL PURCHASER REGARDING HIS OR HER OWN CONTRACT;

(b) TRADE SECRETS AND PROPRIETARY INFORMATION REGARDING SOFTWARE, INCLUDING PROGRAMS AND SOURCE CODES, UTILIZED OR OWNED BY THE AUTHORITY;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AND

(c) **MARKETING PLANS AND THE RESULTS OF MARKET SURVEYS CONDUCTED BY THE AUTHORITY.**

(3) **NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE AUTHORITY MAY DISCLOSE AND MAY PROVIDE THE RIGHT OF ACCESS TO OR INSPECTION OF ANY DATA, INFORMATION, OR RECORDS TO AGENTS OR REPRESENTATIVES OF PROFESSIONALS WITH WHOM THE AUTHORITY HAS CONTRACTED AS PROVIDED IN AN ADVANCE PAYMENT CONTRACT OR CONTRACTS, OR TO THE STATE TREASURER, OR TO OTHER THIRD PARTIES IF THE PURCHASER OR PURCHASERS OF THE ADVANCE PAYMENT CONTRACT OR CONTRACTS HAVE CONSENTED IN WRITING TO SUCH DISCLOSURE.**

(4) **NO CAUSE OF ACTION SHALL ARISE AGAINST A PERSON FOR DISCLOSING CONFIDENTIAL INFORMATION IN VIOLATION OF SUBSECTION (2) OF THIS SECTION UNLESS THE ACT OR OMISSION GIVING RISE TO THE CAUSE OF ACTION WAS INTENTIONAL OR GROSSLY NEGLIGENT.**

SECTION 2. Article 3.1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-3.1-307.5. Confidentiality of records. (1) **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL DATA, INFORMATION, AND RECORDS RELATING TO THE COLLEGE SAVINGS PROGRAM ARE PUBLIC RECORDS AND ARE SUBJECT TO INSPECTION PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.**

(2) **THE FOLLOWING DATA, INFORMATION, AND RECORDS RELATING TO THE COLLEGE SAVINGS PROGRAM SHALL BE KEPT CONFIDENTIAL BY THE AUTHORITY, AND THE AUTHORITY SHALL DENY THE RIGHT OF ACCESS TO OR INSPECTION OF SUCH DATA, INFORMATION, AND RECORDS EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION:**

(a) **DATA, INFORMATION AND RECORDS RELATING TO DESIGNATED BENEFICIARIES AND CONTRIBUTORS TO AN INDIVIDUAL TRUST ACCOUNT OR SAVINGS ACCOUNT INCLUDING ANY RECORDS THAT REVEAL PERSONALLY IDENTIFIABLE INFORMATION ABOUT SUCH INDIVIDUALS; EXCEPT THAT THE AUTHORITY MAY DISCLOSE SUCH INFORMATION TO AN ACCOUNT OWNER REGARDING HIS OR HER OWN ACCOUNT;**

(b) **TRADE SECRETS AND PROPRIETARY INFORMATION REGARDING SOFTWARE, INCLUDING PROGRAMS AND SOURCE CODES, UTILIZED OR OWNED BY THE AUTHORITY; AND**

(c) **MARKETING PLANS AND THE RESULTS OF MARKET SURVEYS CONDUCTED BY THE AUTHORITY.**

(3) **NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE AUTHORITY MAY DISCLOSE AND MAY PROVIDE THE RIGHT OF ACCESS TO OR INSPECTION OF ANY DATA, INFORMATION, OR RECORDS TO AGENTS OR REPRESENTATIVES OF PROFESSIONALS WITH WHOM THE AUTHORITY HAS CONTRACTED, OR TO THE STATE TREASURER, OR TO OTHER THIRD PARTIES IF THE ACCOUNT OWNER**

AND DESIGNATED BENEFICIARY HAVE CONSENTED IN WRITING TO SUCH DISCLOSURE.

(4) NO CAUSE OF ACTION SHALL ARISE AGAINST A PERSON FOR DISCLOSING CONFIDENTIAL INFORMATION IN VIOLATION OF SUBSECTION (2) OF THIS SECTION UNLESS THE ACT OR OMISSION GIVING RISE TO THE CAUSE OF ACTION WAS INTENTIONAL OR GROSSLY NEGLIGENT.

SECTION 3. 23-3.1-307 (4), Colorado Revised Statutes, is amended to read:

23-3.1-307. Limitations. (4) Section 23-3.1-211, relating to personal liability, AND section 23-3.1-217.5, relating to claims of creditors, ~~and section 23-3.1-225, relating to confidentiality of records,~~ shall apply to this part 3.

SECTION 4. 24-72-202 (6) (b) (III), Colorado Revised Statutes, is amended to read:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(III) Data, information, and records relating to ~~the Colorado prepaid postsecondary education expense trust fund established in section 23-3.1-206.7(5), C.R.S.~~ STUDENT OBLIGATION BOND AUTHORITY PROGRAMS PURSUANT TO SECTIONS 23-3.1-225 AND 23-3.1-307.5, C.R.S., AS FOLLOWS:

(A) DATA, INFORMATION, AND RECORDS RELATING TO INDIVIDUAL PURCHASERS AND QUALIFIED BENEFICIARIES OF ADVANCE PAYMENT CONTRACTS UNDER THE PREPAID EXPENSE TRUST FUND AND THE PREPAID EXPENSE PROGRAM, INCLUDING ANY RECORDS THAT REVEAL PERSONALLY IDENTIFIABLE INFORMATION ABOUT SUCH INDIVIDUALS;

(B) DATA, INFORMATION, AND RECORDS RELATING TO DESIGNATED BENEFICIARIES OF AND INDIVIDUAL CONTRIBUTORS TO AN INDIVIDUAL TRUST ACCOUNT OR SAVINGS ACCOUNT UNDER THE COLLEGE SAVINGS PROGRAM, INCLUDING ANY RECORDS THAT REVEAL PERSONALLY IDENTIFIABLE INFORMATION ABOUT SUCH INDIVIDUALS;

(C) TRADE SECRETS AND PROPRIETARY INFORMATION REGARDING SOFTWARE, INCLUDING PROGRAMS AND SOURCE CODES, UTILIZED OR OWNED BY THE AUTHORITY; AND

(D) MARKETING PLANS AND THE RESULTS OF MARKET SURVEYS CONDUCTED BY THE AUTHORITY.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 29, 2000