

110TH CONGRESS  
1ST SESSION

# S. 2258

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## AN ACT

To temporarily extend the programs under the Higher Education Act of 1965, to amend the definition of an eligible not-for-profit holder, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Third Higher Edu-  
3 cation Extension Act of 2007”.

4 **SEC. 2. EXTENSION OF PROGRAMS.**

5 Section 2(a) of the Higher Education Extension Act  
6 of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is  
7 amended by striking “October 31, 2007” and inserting  
8 “March 31, 2008”.

9 **SEC. 3. RULE OF CONSTRUCTION.**

10 Nothing in this Act, or in the Higher Education Ex-  
11 tension Act of 2005 as amended by this Act, shall be con-  
12 strued to limit or otherwise alter the authorizations of ap-  
13 propriations for, or the durations of, programs contained  
14 in the amendments made by the Higher Education Rec-  
15 onciliation Act of 2005 (Public Law 109–171) or by the  
16 College Cost Reduction and Access Act (Public Law 110–  
17 84) to the provisions of the Higher Education Act of 1965  
18 and the Taxpayer-Teacher Protection Act of 2004.

19 **SEC. 4. DEFINITION OF ELIGIBLE NOT-FOR-PROFIT HOLD-**  
20 **ER.**

21 Section 435(p) of the Higher Education Act of 1965  
22 (20 U.S.C. 1085(p)) is amended —

23 (1) in paragraph (1), by striking subparagraph  
24 (D) and inserting the following:

25 “(D) acting as a trustee on behalf of a  
26 State, political subdivision, authority, agency,

1 instrumentality, or other entity described in  
2 subparagraph (A), (B), or (C), regardless of  
3 whether such State, political subdivision, au-  
4 thority, agency, instrumentality, or other entity  
5 is an eligible lender under subsection (d).”; and  
6 (2) in paragraph (2)—

7 (A) in subparagraph (A)(i), by striking  
8 subclause (II) and inserting the following:

9 “(II) is acting as a trustee on be-  
10 half of a State, political subdivision,  
11 authority, agency, instrumentality, or  
12 other entity described in subpara-  
13 graph (A), (B), or (C) of paragraph  
14 (1), regardless of whether such State,  
15 political subdivision, authority, agen-  
16 cy, instrumentality, or other entity is  
17 an eligible lender under subsection  
18 (d), and such State, political subdivi-  
19 sion, authority, agency, instrumen-  
20 tality, or other entity, on the date of  
21 enactment of the College Cost Reduc-  
22 tion and Access Act, was the sole ben-  
23 efiticial owner of a loan eligible for any  
24 special allowance payment under sec-  
25 tion 438.”;

1 (B) in subparagraph (A)(ii), by inserting  
2 “of” after “waive the requirements”;

3 (C) by amending subparagraph (B) to read  
4 as follows:

5 “(B) NO FOR-PROFIT OWNERSHIP OR CON-  
6 TROL.—

7 “(i) IN GENERAL.—No State, political  
8 subdivision, authority, agency, instrumen-  
9 tality, or other entity described in para-  
10 graph (1)(A), (B), or (C) shall be an eligi-  
11 ble not-for-profit holder under this Act if  
12 such State, political subdivision, authority,  
13 agency, instrumentality, or other entity is  
14 owned or controlled, in whole or in part, by  
15 a for-profit entity.

16 “(ii) TRUSTEES.—A trustee described  
17 in paragraph (1)(D) shall not be an eligi-  
18 ble not-for-profit holder under this Act  
19 with respect to a State, political subdivi-  
20 sion, authority, agency, instrumentality, or  
21 other entity described in subparagraph  
22 (A), (B), or (C) of paragraph (1), regard-  
23 less of whether such State, political sub-  
24 division, authority, agency, instrumentality,  
25 or other entity is an eligible lender under

1 subsection (d), if such State, political sub-  
2 division, authority, agency, instrumentality,  
3 or other entity is owned or controlled, in  
4 whole or in part, by a for-profit entity.”;

5 (D) by amending subparagraph (C) to read  
6 as follows:

7 “(C) SOLE OWNERSHIP OF LOANS AND IN-  
8 COME.—No State, political subdivision, author-  
9 ity, agency, instrumentality, trustee, or other  
10 entity described in paragraph (1)(A), (B), (C),  
11 or (D) shall be an eligible not-for-profit holder  
12 under this Act with respect to any loan, or in-  
13 come from any loan, unless—

14 “(i) such State, political subdivision,  
15 authority, agency, instrumentality, or other  
16 entity is the sole beneficial owner of such  
17 loan and the income from such loan; or

18 “(ii) such trustee holds the loan on  
19 behalf of a State, political subdivision, au-  
20 thority, agency, instrumentality, or other  
21 entity described in subparagraph (A), (B),  
22 or (C) of paragraph (1), regardless of  
23 whether such State, political subdivision,  
24 authority, agency, instrumentality, or other  
25 entity is an eligible lender under subsection

1 (d), and such State, political subdivision,  
2 authority, agency, instrumentality, or other  
3 entity is the sole beneficial owner of such  
4 loan and the income from such loan.”;

5 (E) in subparagraph (D), by striking “an  
6 entity described in described in paragraph  
7 (1)(A), (B), or (C)” and inserting “a State, po-  
8 litical subdivision, authority, agency, instrumen-  
9 tality, or other entity described in subparagraph  
10 (A), (B), or (C) of paragraph (1), regardless of  
11 whether such State, political subdivision, au-  
12 thority, agency, instrumentality, or other entity  
13 is an eligible lender under subsection (d),”; and

14 (F) by amending subparagraph (E) to read  
15 as follows:

16 “(E) RULE OF CONSTRUCTION.—For pur-  
17 poses of subparagraphs (A), (B), (C), and (D)  
18 of this paragraph, a State, political subdivision,  
19 authority, agency, instrumentality, or other en-  
20 tity described in subparagraph (A), (B), or (C)  
21 of paragraph (1), regardless of whether such  
22 State, political subdivision, authority, agency,  
23 instrumentality, or other entity is an eligible  
24 lender under subsection (d), shall not—

1                   “(i) be deemed to be owned or con-  
2                   trolled, in whole or in part, by a for-profit  
3                   entity; or  
4                   “(ii) lose its status as the sole owner  
5                   of a beneficial interest in a loan and the  
6                   income from a loan,  
7                   by such State, political subdivision, authority,  
8                   agency, instrumentality, or other entity, or by  
9                   the trustee described in paragraph (1)(D),  
10                  granting a security interest in, or otherwise  
11                  pledging as collateral, such loan, or the income  
12                  from such loan, to secure a debt obligation for  
13                  which such State, political subdivision, author-  
14                  ity, agency, instrumentality, or other entity is  
15                  the issuer of the debt obligation.”.

Passed the Senate October 30, 2007.

Attest:

*Secretary.*

110<sup>TH</sup> CONGRESS  
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