

CHAPTER 99-220

Senate Bill No. 1984

An act relating to postsecondary education; creating s. 240.553, F.S.; establishing the Florida College Savings Program; providing legislative intent; providing definitions; providing for establishment of the program; providing for deposits in the program and earnings to be exempt from taxation; providing for the program to be administered by the Florida Prepaid College Board; providing duties and powers of the board; providing for the program to be a qualified state tuition program for federal tax purposes; providing requirements for participation agreements; providing for duration of participation agreements; providing for distributions from an account for qualified higher education expenses; providing for refunds; providing a penalty for making a material misrepresentation in an application for a participation agreement; providing for priorities for expending assets; providing an exemption for moneys in a program account from claims of creditors; providing for payroll deduction; providing a disclaimer regarding guarantee of postsecondary admission; providing for program termination; providing for nonlimitation or alteration of rights under the program; requiring an annual report to the Governor and the Legislature; providing restrictions for program implementation; amending s. 222.22, F.S.; exempting moneys in a program account from legal process; amending s. 732.402, F.S.; designating program accounts as exempt property for purposes of probate; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 240.553, Florida Statutes, is created to read:

240.553 Florida College Savings Program.—

(1) LEGISLATIVE INTENT.—The Legislature recognizes that affordability and accessibility of higher education are essential to the welfare and well-being of the residents of the state and is a critical state interest. Promoting and enhancing financial access to postsecondary institutions serves a legitimate public purpose. Accordingly, as a supplement and alternative to existing programs that promote timely planning for postsecondary attendance, it is the intent of the Legislature to allow the Florida Prepaid College Board to establish a Florida College Savings Program to allow persons to make contributions to a trust account that is established for the purpose of meeting some or all of the qualified higher education expenses of a designated beneficiary, consistent with federal law authorizing such programs. There is not any guarantee by the state that such contributions, together with the investment return on such contributions, if any, will be adequate to pay for qualified higher education expenses. It is the intent of the Legislature that this program enable participants in the Florida College Savings Program to save for qualified higher education expenses. It is further the intent of the Legislature that this program provide a choice to

persons who determine that the overall educational needs of their families are best suited to a savings program or who wish to save to meet postsecondary educational needs beyond the traditional 4-year curriculum. Finally, it is the intent of the Legislature that the program be conducted as a public-private partnership to maximize program efficiency and effectiveness.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Benefactor” means any person making a deposit, payment, contribution, gift, or other expenditure to the trust.

(b) “Board” means the Florida Prepaid College Board.

(c) “Designated beneficiary” means:

1. Any individual designated in the participation agreement;

2. Any individual defined in s.152 (a), paragraphs (1) through (8), of the Internal Revenue Code; or

3. Any individual receiving a scholarship from interests in the program purchased by a state or local government or an organization described in s. 501(c)(3) of the Internal Revenue Code.

(d) “Eligible educational institution” means an institution of higher education that qualifies under s. 529 of the Internal Revenue Code as an eligible educational institution.

(e) “Internal Revenue Code” means the Internal Revenue Code of 1986, as defined in s. 220.03(1).

(f) “Participation agreement” means an agreement between the board and a benefactor for participation in a savings plan for a designated beneficiary.

(g) “Program” means the Florida College Savings Program.

(h) “Qualified higher education expenses” means higher education expenses permitted under s. 529 of the Internal Revenue Code and required for the enrollment or attendance of a designated beneficiary at an eligible educational institution, including undergraduate and graduate schools, and any other higher education expenses that are permitted under s. 529 of the Internal Revenue Code.

(3) FLORIDA COLLEGE SAVINGS PROGRAM; CREATION.—

(a) The board is authorized to create and establish the Florida College Savings Program to promote and enhance the affordability and accessibility of higher education in the state. Such program shall enable persons to contribute funds that are combined and invested to pay the subsequent qualified higher education expenses of a designated beneficiary. The board shall administer the program and shall perform essential governmental functions, as provided in this section.

(b) The amounts on deposit in the program shall remain therein and shall be available solely for carrying out the purposes of this section. Any contract entered into by or any obligation of the board on behalf of and for the benefit of the program does not constitute a debt or obligation of the state but is an obligation of the program. The state has no obligation to any designated beneficiary or any other person as a result of the program. The obligation of the program is limited solely to those amounts deposited in the program. All amounts obligated to be paid from the program are limited to amounts available for such obligation. The amounts on deposit in the program may only be disbursed in accordance with the provisions of this section. Each participation agreement must clearly state that the contract is only a debt or obligation of the program and is not otherwise a debt or obligation of the state.

(c) The benefactor retains ownership of all amounts on deposit in his or her account with the program up to the date of distribution on behalf of a designated beneficiary. Earnings derived from investment of the contributions shall be considered to be held in trust in the same manner as contributions, except as applied for purposes of the designated beneficiary and for purposes of maintaining and administering the program as provided in this section. Nothing in this paragraph or in any other provision of this section permits any contributions or corresponding interest in the program to be used as security for a loan by a benefactor or designated beneficiary.

(d) All amounts attributable to penalties shall be used for purposes of the program, and other amounts received other than contributions shall be properties of the program. Proceeds from penalties shall remain with the program and may be used for any costs or purposes of the program.

(e) The board may not receive deposits in any form other than cash. A benefactor or designated beneficiary may not direct the investment of any contributions or amounts held in the program other than the specific fund options provided by the board, if any.

(f) Appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with participation agreements, shall be deposited into the Florida Prepaid College Trust Fund in accordance with s. 240.551(4).

(g) Deposits and contributions to the program, the property of the board, and the earnings on the college savings accounts are exempt from taxation.

(4) PROGRAM ADMINISTRATION.—

(a) The Florida College Savings Program shall be administered by the Florida Prepaid College Board as an agency of the state. The Florida Prepaid College Board has all the powers of a body corporate for the purposes delineated in this section.

(b) The assets of the program shall be continuously invested and reinvested in a manner consistent with the purposes of the program, expended on expenses incurred by the operation and management of the program, or refunded to the benefactor or designated beneficiary under the conditions

provided in the participation agreement. The board is not required to invest directly in obligations of the state or any political subdivision of the state or in any investment or other fund administered by the state.

(5) FLORIDA COLLEGE SAVINGS PROGRAM; BOARD DUTIES.—
The board shall:

(a) Appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned to him or her by the board.

(b) Receive and hold all payments, deposits, and contributions intended for the program, as well as gifts; bequests; endowments; federal, state, or local grants; any other public or private source of funds; and all earnings, until disbursed to pay qualified higher education expenses or refunds as authorized in this section.

(c) Invest the contributions in a manner reasonable and appropriate to achieve the objectives of the program, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. The board shall give due consideration to rate of return, risk, term of maturity, diversification of total portfolio within the program, liquidity, projected disbursements and expenditures, and expected payments, deposits, contributions, and gifts to be received. Moneys in the program are exempt from s. 215.20(1), state securities law, and the investment requirements of s. 18.10, but are subject to the investment restrictions contained in s. 215.472.

(d) Solicit proposals and contract, pursuant to s. 287.057, for a trustee-services firm to hold and maintain assets of the board in conjunction with the operations of product providers contracted under this section. Such firm may also provide for the short-term investment of the board's assets. In selecting a trustee-services firm, the board shall seek to obtain the highest standards of professional trustee services, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the participants at the lowest cost possible. The trustee services firm shall agree to meet the obligations of the program to designated beneficiaries if money in the fund fails to offset the obligations of the program as a result of imprudent selection or supervision of short-term investments or in the event of the loss of securities by such firm. Evaluations of proposals submitted under this paragraph must include, but need not be limited to, the following criteria:

1. Adequacy of trustee services to hold and maintain assets of the board, including current operations and staff organization and commitment of management to the proposal.

2. Capability to execute program responsibilities within time and regulatory constraints.

3. Past experience in trustee services and current ability to maintain regular and continuous interactions with the board and product provider.

4. The minimum benefactor participation assumed within the proposal and any additional requirements of benefactors.

5. Adequacy of technical assistance and services proposed for staff.
6. Adequacy of a management system for evaluating and improving over-all trustee services to the program.
7. Adequacy of facilities, equipment, and electronic data-processing services.
8. Detailed projections of administrative costs, including the amount and type of insurance coverage, and detailed projections of total costs.

(e) Solicit proposals and contract, pursuant to s. 287.057, for one or more investment consultants to advise the board regarding investment management and performance. In selecting investment consultants, the board shall seek to obtain the highest standards of investment consulting, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the participants at the lowest cost possible. The investment consultants shall agree to meet the obligations of the programs to designated beneficiaries if money in the fund fails to offset the obligations of the program as a result of imprudent supervision of the board's investments. Evaluations of proposals submitted under this paragraph must include, but need not be limited to, the following criteria:

1. Capability to execute program responsibilities within time and regulatory constraints.
2. Past experience in investment consulting and current ability to maintain regular and continuous interactions with the board and product providers.
3. Adequacy of technical assistance and services proposed for staff.
4. Detailed projections of administrative costs.

(f) Solicit proposals and contract, pursuant to s. 287.057, for product providers to develop investment portfolios on behalf of the board to achieve the purposes of this section. Product providers shall be limited to authorized insurers as defined in s. 624.09, banks as defined in s. 658.12, associations as defined in s. 665.012, authorized Securities and Exchange Commission investment advisers, and investment companies as defined in the Investment Company Act of 1940. All product providers must have their principal place of business and corporate charter located and registered in the United States. Each product provider must agree to meet the obligations of the program to designated beneficiaries if moneys in the fund fail to offset the obligations of the program as a result of imprudent investing by such provider. Each authorized insurer must evidence superior performance overall on an acceptable level of surety in meeting its obligations to its policyholders and other contractual obligations. Only qualified public depositories approved by the State Insurance Commissioner and Treasurer are eligible for consideration. Each investment company must provide investment plans as specified within the request for proposals. In selecting a product provider, the board shall seek to provide all participants with the most secure, well-diversified, and beneficially administered college savings plan possible, to

allow all qualified firms interested in providing such services equal consideration, and to provide such services to participants at the lowest cost possible. Evaluations of proposals submitted under this paragraph must include, but need not be limited to, the following criteria:

1. Fees and other costs charged to participants which affect account values or operational costs related to the program.

2. Past and current investment performance, including investment and interest rate history, guaranteed minimum rates of interest, consistency of investment performance, and any terms and conditions under which moneys are held.

3. Past experience and ability to provide timely and accurate service in the areas of benefit payments, investment management, and complaint resolution.

4. Financial history and current financial strength and capital adequacy to provide products, including operating procedures and other methods of protecting program assets.

(g) Establish an investment plan for the purposes of this section with the approval of the State Board of Administration. The investment plan must specify the investment policies to be used by the board in its administration of the program. The board may place assets of the program in savings accounts or purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan and in the proportions that are designated or approved under the investment plan. The insurance, annuity, savings, or investment products must be underwritten and offered in compliance with the applicable federal and state laws and rules by persons who are duly authorized by applicable federal and state authorities. Within the investment plan, the board may authorize investment vehicles, or products incident thereto, as are available or offered by qualified companies or persons. A benefactor may not direct the investment of his or her contribution to the program and a designated beneficiary may not direct the contribution made on his or her behalf to the program. Board members and employees of the board are not prohibited from participating in the program by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.

(h) Administer the program in a manner that is sufficiently actuarially sound to defray the obligations of the trust. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the trust.

(i) Establish adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(j) Maintain separate accounts for each designated beneficiary and establish other accounts within the program as necessary to appropriately account for all funds held in the program.

(6) FLORIDA COLLEGE SAVINGS PROGRAM; BOARD POWERS.—
The board shall have the powers necessary or proper to carry out the provisions of this section, including, but not limited to, the power to:

- (a) Adopt an official seal and rules.
- (b) Sue and be sued.
- (c) Make and execute contracts and other necessary instruments.
- (d) Establish agreements or other transactions with federal, state, and local agencies, including state universities and community colleges.
- (e) Invest funds not required for immediate disbursement.
- (f) Appear in its own behalf before boards, commissions, or other governmental agencies.
- (g) Hold, buy, and sell any instruments, obligations, securities, and property determined appropriate by the board.
- (h) Require a reasonable length of state residence for qualified beneficiaries.
- (i) Segregate contributions and payments to the fund into various accounts and funds.
- (j) Contract for necessary goods and services; employ necessary personnel; and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for administrative or technical assistance.
- (k) Solicit and accept gifts, grants, loans, and other aids from any source or participate in any other way in any government program to carry out the purposes of this section.
- (l) Require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into a participation agreement on a fraudulent basis.
- (m) Procure insurance against any loss in connection with the property, assets, and activities of the program or the board.
- (n) Impose reasonable time limits on use of the benefits provided by the program; however, any such limitation must be specified within the participation agreement.
- (o) Delineate the terms and conditions under which contributions may be withdrawn from the fund and impose reasonable fees and charges for such withdrawal. Such terms and conditions must be specified within the participation agreement.
- (p) Provide for the receipt of contributions in lump sums or installments.

(q) Require that benefactors verify, under oath, any requests for conversions, substitutions, transfers, cancellations, refunds, or other changes to a participation agreement. Verification must be accomplished as authorized and provided for in s. 92.525(1)(a).

(r) Delegate responsibility for administering the investment plan required in paragraph (5)(g) to a person the board determines to be qualified. Such person shall be compensated by the board. Directly or through such person, the board may contract with a private corporation or institution to provide the services that are a part of the investment plan or that are deemed necessary or proper by the board or such person, including, but not limited to, providing for consolidated billing; individual and collective recordkeeping and accountings; and the purchase, control, and safekeeping of assets.

(s) Endorse insurance coverage written exclusively for program participants which may be issued in the form of a group life policy and which is exempt from part V of chapter 627.

(t) Solicit proposals and contract, pursuant to s. 287.057, for the services of a records administrator. The goals of the board in selecting a records administrator shall be to provide all participants with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to participants at the lowest cost possible. Evaluations of proposals submitted under this paragraph must include, but need not be limited to, the following criteria:

1. Fees and other costs charged to purchasers which affect account values or operational costs related to the program.

2. Past experience in records administration and current ability to provide timely and accurate service in the areas of records administration, audit and reconciliation, plan communication, participant service, and complaint resolution.

3. Sufficient staff and computer capability for the scope and level of service expected by the board.

4. Financial history and current financial strength and capital adequacy to provide administrative services required by the board.

(u) Solicit proposals and contract, pursuant to s. 287.057, for the marketing of the Florida College Savings Program. Any materials produced for the purpose of marketing the program must be submitted to the board for review. Such materials may not be made available to the public before the materials are approved by the board. An educational institution may distribute marketing materials produced for the program; however, all such materials must be approved by the board prior to distribution. Neither the state nor the board is liable for misrepresentation by a marketing agent.

(v) Establish other policies, procedures, and criteria to implement and administer the provisions of this section.

(7) “QUALIFIED STATE TUITION PROGRAM” STATUS.—Notwithstanding any other provision of this section, the board may adopt rules necessary to enable the program to obtain and retain status as a “qualified state tuition program” for federal tax purposes under the Internal Revenue Code of 1986, as defined in s. 220.03(1). The board shall inform participants of changes to the tax or securities status of participation agreements.

(8) PARTICIPATION AGREEMENTS.—

(a) A participation agreement may be freely amended throughout its term in order to enable the benefactor to increase or decrease the level of participation, change designated beneficiaries, and carry out similar matters permitted by this section and the Internal Revenue Code. A participation agreement may provide for periodic deposits by the benefactor.

(b) Deposits to the program by benefactors may only be in cash. Benefactors may contribute in a lump sum, in installments, or through electronic funds transfer or employer payroll deductions.

(c) The board may establish plans to permit benefactors to prepay the qualified higher education expenses associated with enrollment in state public and private colleges or universities and may establish a procedure to permit account contributions in excess of such projected expenses. The board shall prescribe by rule the methodology and information sources that shall be used to determine the projected costs of qualified higher education expenses for designated beneficiaries of prescribed ages. Decisions by the board regarding the need for excess account contributions are subject to chapter 120.

(d) The board shall establish consistent provisions for each participation agreement, including, but not limited to:

1. The name, date of birth, and social security number of the designated beneficiary. For newborns, the social security number must be provided within 6 months after the date the participation agreement is submitted.

2. The amount of the contribution or contributions and number of contributions required from a benefactor on behalf of a designated beneficiary.

3. The terms and conditions under which benefactors shall remit contributions, including, but not limited to, the date or dates upon which each contribution is due.

4. Provisions for late contribution charges and for default.

5. Provisions for penalty fees for withdrawals from the program.

6. The name of the person who may terminate participation in the program. The participation agreement must specify whether the account may be terminated by the benefactor, the designated beneficiary, a specific designated person, or any combination of these persons.

7. The terms and conditions under which an account may be terminated, modified, or converted, the name of the person entitled to any refund due

as a result of termination of the account pursuant to such terms and conditions, and the amount of refund, if any, due to the person so named.

8. Penalties for distributions not used or made in accordance with s. 529 of the Internal Revenue Code.

9. Any charges or fees in connection with the administration of the trust.

10. Other terms and conditions deemed by the board to be necessary or proper.

(e) Each participation agreement must clearly state that participation in the program does not guarantee that sufficient funds will be available to cover all qualified higher education expenses for any designated beneficiary.

(f) Each participation agreement must clearly state that participation in the program does not guarantee admission to or continued enrollment at an eligible educational institution.

(9) DURATION OF PARTICIPATION AGREEMENT.—The board shall specify a period of time after which each participation agreement shall be considered to be terminated. Upon termination of an agreement, the balance of the account, after notice to the benefactor, shall be declared unclaimed and abandoned property and subject to disposition as such under chapter 717. Time expended by a designated beneficiary as an active-duty member of any of the armed services of the United States shall be added to the period specified pursuant to this subsection.

(10) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

(a) The board shall establish requirements and procedures for beneficiaries to realize the benefits of participation agreements. In establishing such requirements and procedures, the board shall make distributions in as efficient and expeditious manner as is prudent and possible.

(b) Each distribution of benefits from a participation agreement shall consist of a pro rata distribution of contributions and investment earnings or investment losses and shall be consistent with the regulations of the United States Treasury Department or Internal Revenue Service.

(c) All distributions made during a taxable year shall be treated as one distribution.

(d) Distributions from accounts that lack a valid social security number are subject to penalties and withholding taxes at the time of distribution.

(11) REFUNDS.—

(a) A benefactor may request a refund of the principal amount of his or her contributions, plus actual investment earnings or minus actual investment losses on the contributions, less any applicable penalty, and less any amounts used to provide benefits to the designated beneficiary.

(b) Notwithstanding paragraph (a), a penalty may not be levied if a benefactor requests a refund from the program due to:

1. Death of the beneficiary.
2. Total disability of the beneficiary.
3. Scholarship, allowance, or payment received by the beneficiary to the extent that the amount of the refund does not exceed the amount of the scholarship, allowance, or payment in accordance with federal law.

(c) If a benefactor requests a refund of funds contributed to the program for any cause other than those listed in paragraph (b), there shall be imposed a penalty of 10 percent of the earnings of the account and any applicable taxes, or the penalty prescribed in the Internal Revenue Code or by rule of the Internal Revenue Service. Earnings shall be calculated as the total value of the participation agreement, less the aggregate contributions, or in the manner prescribed in the Internal Revenue Code or by rule of the Internal Revenue Service.

(12) MATERIAL MISREPRESENTATION; PENALTY.—If the benefactor or the designated beneficiary makes any material misrepresentation in the application for a participation agreement or in any communication with the board regarding the program, especially regarding the withdrawal or distribution of funds therefrom, the account may be involuntarily liquidated by the board. If the account is so liquidated, the benefactor is entitled to a refund, subject to a 10-percent penalty or the amount required by the Internal Revenue Code.

(13) ASSETS OF THE FUND; EXPENDITURE PRIORITY.—The assets of the fund shall be maintained, invested, and expended solely for the purposes of this section and may not be loaned, transferred, or otherwise used by the state for any purpose other than the purposes of this section. This subsection does not prohibit the board from investing in, by purchase or otherwise, bonds, notes, or other obligations of the state or an agency or instrumentality of the state. Unless otherwise specified by the board, assets of the fund shall be expended in the following order of priority:

- (a) To make payments on behalf of designated beneficiaries.
- (b) To make refunds upon termination of participation in the program.
- (c) To pay the costs of program administration and operations.

(14) EXEMPTION FROM CLAIMS OF CREDITORS.—Moneys paid into or out of the program by or on behalf of a benefactor or designated beneficiary of a participation agreement whose account has not been terminated, are exempt, as provided by s. 222.22 from all claims of creditors of the benefactor or the designated beneficiary.

(15) PAYROLL DEDUCTION AUTHORITY.—The state or any state agency, county, municipality, or other political subdivision may, by contract or collective bargaining agreement, agree with any employee to remit payments toward participation agreements through payroll deductions made by

the appropriate officer or officers of the state, state agency, county, municipality, or political subdivision. Such payments shall be held and administered in accordance with this section.

(16) DISCLAIMER.—This section or any participation agreement does not constitute, and may not be deemed to constitute, an agreement, pledge, promise, or guarantee of admission or continued enrollment of any designated beneficiary or any other person to or in any eligible educational institution.

(17) PROGRAM TERMINATION.—The program shall continue in existence until its existence is terminated by law. Upon termination of the program, all deposits shall be returned to benefactors, to the extent possible, and any unclaimed assets in the program shall revert to the state in accordance with general law regarding unclaimed property. If the state determines that the program is financially infeasible, the state may discontinue the the program.

(18) STATE PLEDGE.—The state pledges to benefactors and designated beneficiaries of the program that the state will not limit or alter the rights under this section which are vested in the program until such obligations are met and discharged. However, this subsection does not preclude such limitation if adequate provision is made by law for the protection of the benefactors and designated beneficiaries pursuant to the obligations of the board, and, if the state or the board determines that the program is not financially feasible, the state or the board may discontinue the program. If the program is discontinued, the board shall refund to benefactors their contributions to the program, plus any investment earnings or minus any investment losses. The board, on behalf of the state, may include this pledge and undertaking by the state in participation agreements.

(19) ANNUAL REPORT.—On or before March 31 each year, the board shall prepare, or cause to be prepared, a report setting forth in appropriate detail an accounting of the program and a description of the financial condition of the program at the close of the fiscal year. The board shall submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the House and Senate and shall make the report available to each benefactor and designated beneficiary. The accounts of the fund are subject to annual audits by the Auditor General or his or her designee.

(20) PROGRAM IMPLEMENTATION RESTRICTIONS.—Implementation of the program may not begin until the board has received the following:

(a) A favorable written and unqualified opinion from counsel specializing in federal tax matters indicating that the program constitutes a qualified state tuition program under s. 529 of the Internal Revenue Code;

(b) A written and unqualified opinion from a qualified member of the United States Patent Bar indicating that the implementation of the program or the operation of the program will not infringe upon any patent or copyright;

(c) A written and unqualified opinion of qualified counsel specializing in federal securities law that the program and the offering of participation in the program are not subject to federal securities law; and

(d) A written and unqualified opinion from the board's litigation counsel indicating that the implementation or operation of the program will not adversely impact any pending litigation against the board.

Section 2. Subsection (1) of section 222.22, Florida Statutes, 1998 Supplement, is amended to read:

222.22 Exemption of moneys in the Prepaid Postsecondary Education Expense Trust Fund and in a Medical Savings Account from legal process.—

(1)(a) Moneys paid into or out of the Florida Prepaid College Trust Fund by or on behalf of a purchaser or qualified beneficiary pursuant to an advance payment contract made under s. 240.551, which contract has not been terminated, are not liable to attachment, garnishment, or legal process in the state in favor of any creditor of the purchaser or beneficiary of such advance payment contract.

(b) Moneys paid into or out of the Prepaid College Trust Fund by or on behalf of a benefactor or designated beneficiary pursuant to a participation agreement made under s. 240.553, which agreement has not been terminated, are not liable to attachment, garnishment, or legal process in the state in favor of any creditor of the purchaser or beneficiary of such participation agreement.

Section 3. Paragraph (c) of subsection (2) of section 732.402, Florida Statutes, 1998 Supplement, is amended to read:

732.402 Exempt property.—

(2) Exempt property shall consist of:

(c) Florida Prepaid College Program contracts purchased under pursuant to s. 240.551 and Florida College Savings agreements established under s. 240.553.

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.