

**164A.701 Commonwealth postsecondary education prepaid tuition trust fund --
Prepaid postsecondary tuition administrative account.**

- (1)
 - (a) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth postsecondary education prepaid tuition trust fund", to be governed by the board and administered by the Tuition Account Program Office. The fund shall be attached to the Kentucky Higher Education Assistance Authority for administrative and reporting purposes, and shall be governed, managed, and administered as a separate and distinct instrumentality of the Commonwealth under the provisions of KRS 164A.700 to 164A.709.
 - (b) The fund shall consist of payments received from prepaid tuition contracts under KRS 164A.700 to 164A.709. Payments received relating to contracts in existence on April 25, 2006, and income earned from the investment of those payments shall be maintained separately from payments received relating to contracts entered into after April 25, 2006, and income earned from the investment of those payments. Income earned from the investment of payments to the fund shall remain in the fund and be credited to it.
 - (c) Notwithstanding any other statute to the contrary, all moneys received under the authority of KRS 164A.700 to 164A.709 and 393.015 shall be deemed to be trust funds to be held and applied solely for payment to qualified beneficiaries and purchasers and to meet the expenses necessary for the administration and maintenance of the fund as provided in KRS 164A.700 to 164A.709.
 - (d) The fund shall not constitute an investment company as defined in KRS 291.010.
 - (e) Obligations under a prepaid tuition contract incurred in accordance with the provisions of KRS 164A.700 to 164A.709 shall not be deemed to constitute a debt, liability, or obligation of the Kentucky Higher Education Assistance Authority, but shall be payable solely from the fund. Each prepaid tuition contract shall contain a statement that the obligation shall be payable solely from the fund.
- (2) The purposes of the fund are:
 - (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
 - (b) To provide students and their parents economic protection against rising tuition costs.
- (3) The Tuition Account Program Office and the facilities of the Kentucky Higher Education Assistance Authority shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.

- (4) (a) Assets of the fund shall be invested in any of the following security types that are deemed appropriate by the board:
1. Government and agency bonds;
 2. Investment grade asset-backed securities and corporate bonds;
 3. Mortgages, excluding interest-only (IO), principal-only (PO), and inverse floaters; and
 4. Equities.
- (b) Equities shall constitute no greater than sixty percent (60%) of the entire portfolio, including up to ten percent (10%) in equities from outside the United States.
- (c) The duration of the fixed-income portion of the portfolio shall reflect the future liability of the fund for tuition payments.
- (d) Assets may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
- (e) Leveraging is strictly prohibited.
- (5) The board may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board together with funds that are obtained from sources legally available and determined by the board to be applicable for the purposes of KRS 164A.700 to 164A.709.
- (6) There is created a separate account within the Kentucky Higher Education Assistance Authority to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the fund.
- (a) Moneys shall be transferred from the fund to the administrative account to meet the expenses necessary for the administration and maintenance of the fund. Expenses incurred by the board and the Tuition Account Program Office in carrying out the provisions of KRS 164A.700 to 164A.709 shall be made payable from the fund through the administrative account, and no administrative expenses shall be incurred by the Kentucky Higher Education Assistance Authority beyond those for which moneys are provided by the fund.
- (b) The board may establish administrative fees for handling prepaid tuition contracts and deposit the funds attributable to the fees in the administrative account.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 3, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 4, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 2, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 2, effective July 14, 2000.

Legislative Research Commission Note (7/1/2005). KRS 393.015, the statute cited in subsection (1)(c) of this section, was repealed by 2005 Ky. Acts ch. 173, Part XXI, sec. 2, effective March 20, 2005.