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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2019

SESSION LAW 2020-70

SENATE BILL 208

AN ACT TO PROVIDE IMMUNITY FOR INSTITUTIONS OF HIGHER EDUCATION FOR CLAIMS RELATED TO COVID-19 CLOSURES FOR SPRING 2020.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 37.

"COVID-19 Immunity for Institutions of Higher Education.

"§ 116-310. Definitions.

The following definitions apply in this Article:

(1) Claim. – A claim or cause of action seeking any legal or equitable remedy or relief.

(2) COVID-19. – The coronavirus disease 2019.

(3) COVID-19 emergency declaration. – Executive Order No. 116 issued March 10, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.

(4) COVID-19 essential business executive order. – Executive Order No. 121 issued March 27, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.

(5) Individual. – A person paying, or on whose behalf a third party is paying, tuition, fees, or room and board to an institution of higher education for the spring academic semester of 2020.

(6) Institution of higher education. – Any of the following institutions, including the owners, directors, trustees, officers, employees, contractors, and agents of those institutions:

a. A constituent institution under the jurisdiction of The University of North Carolina.

b. A community college under the jurisdiction of the State Board of Community Colleges.

c. An eligible private postsecondary institution, as defined in G.S. 116-280(3).

"§ 116-311. Institutions of higher education; tuition liability limitation.

(a) Notwithstanding any other provision of law and subject to G.S. 116-312, an institution of higher education shall have immunity from claims by an individual, if all of the following apply:

(1) The claim arises out of or is in connection with tuition or fees paid to the institution of higher education for the spring academic semester of 2020.

(2) The claim alleges losses or damages arising from an act or omission by the institution of higher education during or in response to COVID-19, the COVID-19 emergency declaration, or the COVID-19 essential business executive order.

(3) The alleged act or omission by the institution of higher education was reasonably related to protecting the public health, safety, or welfare in response to the COVID-19 emergency declaration, COVID-19 essential business executive order, or applicable guidance from the Centers for Disease Control and Prevention.

(4) The institution of higher education offered remote learning options for enrolled students during the spring academic semester of 2020 that allowed students to complete the semester coursework.

(b) Subsection (a) of this section shall not apply to losses or damages that resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event.

(c) Subsection (a) of this section shall not apply to losses or damages caused by an act or omission of the institution of higher education that was in bad faith or malicious.

"**§ 116-312. Applicability.**

This Article applies to alleged acts or omissions occurring on or after the issuance of the COVID-19 emergency declaration until June 1, 2020. The provisions of this Article shall be in addition to all other immunities provided by applicable State law.

"**§ 116-313. Severability.**

It is a matter of vital State concern affecting the public health, safety, and welfare that institutions of higher education continue to be able to fulfill their educational missions during the COVID-19 pandemic without civil liability for any acts or omissions for which immunity is provided in this Article. This Article shall be liberally construed to effectuate those public purposes. The provisions of this Article are severable. If any part of this Article is declared to be invalid by a court, the invalidity does not affect other parts of this Article that can be given effect without the invalid provision."

SECTION 2. This act is effective when it becomes law and applies to all actions commenced on or after March 27, 2020.

In the General Assembly read three times and ratified this the 25th day of June, 2020.

s/ Philip E. Berger

President Pro Tempore of the Senate

s/ David R. Lewis

Presiding Officer of the House of Representatives

s/ Roy Cooper

Governor

Approved 5:27 p.m. this 1st day of July, 2020

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