

116TH CONGRESS
1ST SESSION

S. 1354

To require certain protections for student loan borrowers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2019

Mr. DURBIN (for himself, Mr. REED, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require certain protections for student loan borrowers,
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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student Loan Bor-
5 rower Bill of Rights”.

6 **SEC. 2. HIGHER EDUCATION ACT OF 1965 AMENDMENTS.**

7 (a) STUDENT LOAN INFORMATION BY ELIGIBLE
8 LENDERS.—Section 433 of the Higher Education Act of
9 1965 (20 U.S.C. 1083) is amended—

10 (1) in subsection (b)—

1 (A) in paragraph (12), by striking “and”
 2 after the semicolon;

3 (B) in paragraph (13), by striking the pe-
 4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(14) a statement that—

7 “(A) the borrower may be entitled to serv-
 8 icemember and veteran benefits under the
 9 Servicemembers Civil Relief Act (50 U.S.C.
 10 App. 501 et seq.) and other Federal or State
 11 laws; and

12 “(B) a Servicemember and Veterans Liai-
 13 son designated under section 128(e)(16)(K)(i)
 14 of the Truth in Lending Act (15 U.S.C.
 15 1638(e)(16)(K)(i)) is available to answer in-
 16 quiries about servicemember and veteran bene-
 17 fits, including the toll-free telephone number to
 18 contact the Liaison pursuant to such section.”;
 19 and

20 (2) in subsection (e)—

21 (A) in paragraph (2), by adding at the end
 22 the following:

23 “(D) A statement that—

24 “(i) the borrower may be entitled to
 25 servicemember and veteran benefits under

the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) and other Federal or State laws; and

“(ii) a Servicemember and Veterans Liaison designated under section 128(e)(16)(K)(i) of the Truth in Lending Act (15 U.S.C. 1638(e)(16)(K)(i)) is available to answer inquiries about servicemember and veteran benefits, including the toll-free telephone number to contact the Liaison pursuant to such section.

“(E) A statement that a repayment specialist office or unit designated under section 128(e)(16)(J)(i) of the Truth in Lending Act (15 U.S.C. 1638(e)(16)(J)(i)) is available to answer inquiries related to alternative repayment options, including the toll-free telephone number to contact the specialist pursuant to section 128(e)(16)(J)(iii) of such Act.”; and

(B) in paragraph (3), by adding at the end the following:

“(F) A statement that—

“(i) the borrower may be entitled to servicemember and veteran benefits under the Servicemembers Civil Relief Act (50

U.S.C. App. 501 et seq.) and other Federal or State laws; and

“(ii) a Servicemember and Veterans Liaison designated under section 128(e)(16)(K)(i) of the Truth in Lending Act (15 U.S.C. 1638(e)(16)(K)(i)) is available to answer inquiries about servicemember and veteran benefits, including the toll-free telephone number to contact the Liaison pursuant to such section.

“(G) A statement that a repayment specialist office or unit designated under section 128(e)(16)(J)(i) of the Truth in Lending Act (15 U.S.C. 1638(e)(16)(J)(i)) is available to answer inquiries related to alternative repayment options, including the toll-free telephone number to contact the specialist pursuant to section 128(e)(16)(J)(iii) of such Act.”.

(b) TERMS AND CONDITIONS OF LOANS.—Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following:

“(r) PREPAYMENT AND PAYMENT APPLICATION.—

“(1) IN GENERAL.—A borrower may prepay all or part of a loan made under this part at any time without penalty.

1 “(2) PREPAYMENT.—

2 “(A) IN GENERAL.—If a borrower pays
3 any amount in excess of the amount due for a
4 loan made under this part, the excess amount
5 shall be a prepayment.

6 “(B) APPLICATION OF PREPAYMENT.—If a
7 prepayment equals or exceeds the monthly re-
8 payment amount under the borrower’s repay-
9 ment plan with respect to a loan made under
10 this part, the Secretary shall—

11 “(i) apply the prepaid amount accord-
12 ing to the terms of the promissory note
13 signed by the borrower; and

14 “(ii) upon request of the borrower, ad-
15 vance the due date of the next payment
16 and notify the borrower of any revised due
17 date for the next payment.”.

18 (c) CONTRACTS.—Section 456 of the Higher Edu-
19 cation Act of 1965 (20 U.S.C. 1087f) is amended—

20 (1) in subsection (a), by striking paragraph (3)
21 and inserting the following:

22 “(3) RULES OF CONSTRUCTION.—

23 “(A) CONSORTIA.—Nothing in this section
24 shall be construed as a limitation of the author-
25 ity of any State agency to enter into an agree-

ment for the purposes of this section as a member of a consortium of State agencies.

“(B) COMPLIANCE WITH STATE AND FEDERAL LAWS.—Nothing in this section shall be construed as altering, limiting, or affecting any obligation by an entity with which the Secretary enters into a contract under this section to comply with any applicable Federal or State law, including any Federal consumer financial law, as defined in section 1002(14) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481(14)).

“(C) AUTHORITIES.—Nothing in this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other State regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law of such State.”; and

(2) by adding at the end the following:

“(d) APPLICABILITY OF PROVISIONS UNDER THE CONSUMER FINANCIAL PROTECTION ACT OF 2010.—

“(1) CONSUMER FINANCIAL PRODUCT OR SERVICE.—A consumer financial product or service offered by an entity with which the Secretary enters

1 into a contract under this section for origination,
2 servicing, or collection described in subsection (b), as
3 part of such contract, shall have the meaning given
4 the term in section 1002 of the Consumer Financial
5 Protection Act of 2010 (12 U.S.C. 5481).

6 “(2) COVERED PERSON.—Any entity with which
7 the Secretary enters into a contract under this sec-
8 tion for origination, servicing, or collection described
9 in subsection (b) shall be considered a ‘covered per-
10 son’ (as defined in section 1002 of the Consumer Fi-
11 nancial Protection Act of 2010 (12 U.S.C. 5481))
12 and subject to the provisions of the Consumer Fi-
13 nancial Protection Act of 2010 (12 U.S.C. 5481 et
14 seq.).

15 “(3) POSTSECONDARY EDUCATIONAL LENDER
16 OR SERVICER.—Any entity with which the Secretary
17 enters into a contract under this section for origina-
18 tion, servicing, or collection, as described in sub-
19 section (b), and is engaged in the provision of, or of-
20 fering, servicing shall be considered a ‘postsecondary
21 educational lender or servicer’ (as defined in section
22 128(e) of the Truth in Lending Act (15 U.S.C.
23 1638(e))), and subject to the provisions of section
24 128(e) of the Truth in Lending Act (12 U.S.C.
25 1638(e)).

1 “(e) COMPLAINTS FROM STUDENT LOAN BOR-
2 ROWERS.—In awarding any contract under this section for
3 origination, servicing, or collection described in subsection
4 (b), the Secretary shall require, as part of such contract,
5 any entity receiving such an award—

6 “(1) to respond to consumer complaints sub-
7 mitted to any Federal, State, or local agency that
8 accepts complaints from student loan borrowers, in-
9 cluding the Bureau of Consumer Financial Protec-
10 tion, by borrowers who owe loans made under this
11 part; and

12 “(2) to share information about consumer com-
13 plaints with the Secretary, the Bureau of Consumer
14 Financial Protection, the Federal Trade Commis-
15 sion, the Department of Veterans Affairs, any State
16 attorney general, or any other Federal or State reg-
17 ulatory or enforcement agency that compiles infor-
18 mation about such complaints.

19 “(f) LIMITATIONS ON CONTRACTS.—Any entity with
20 which the Secretary enters into a contract under this sec-
21 tion shall be prohibited, as part of such contract, from
22 marketing to the borrower of a loan made, insured, or
23 guaranteed under this title a financial product or serv-
24 ice—

1 “(1) using data obtained as a result of the con-
 2 tract or the relationship with the borrower stemming
 3 from the contract;

4 “(2) during any outreach or contact with the
 5 borrower resulting from the contract or the relation-
 6 ship with the borrower stemming from the contract;
 7 or

8 “(3) on any platform or through any method
 9 resulting from the contract or the relationship with
 10 the borrower stemming from the contract.

11 “(g) STUDENT LOAN SERVICING INTERAGENCY
 12 WORKING GROUP.—

13 “(1) IN GENERAL.—Not later than 30 days
 14 after the date of enactment of the Student Loan
 15 Borrower Bill of Rights, the Secretary shall establish
 16 a student loan servicing interagency working group
 17 co-chaired by the Secretary and the Director of the
 18 Bureau of Consumer Financial Protection and in-
 19 cluding the Chief Operating Officer of the Office of
 20 Federal Student Aid, the Director of the Office of
 21 Management and Budget, the Secretary of the
 22 Treasury, and the heads of any other relevant Fed-
 23 eral departments or agencies.

24 “(2) ADVISORY REPORT ON RULEMAKING.—

1 “(A) IN GENERAL.—Not later than 120
2 days after the date the working group under
3 paragraph (1) is established, the working group
4 shall publish an advisory report making rec-
5 ommendations to the Director of the Bureau of
6 Consumer Financial Protection related to the
7 promulgation of regulations under section
8 128(e)(17)(A) of the Truth in Lending Act (15
9 U.S.C. 1638(e)(17)(A)) with respect to entities
10 with which the Secretary has entered into a
11 contract under this section.

12 “(B) PUBLIC FEEDBACK.—Following the
13 publication of the advisory report required
14 under subparagraph (A), the Secretary shall ac-
15 cept, for not less than 60 days, from the public
16 specific feedback on the recommendations in-
17 cluded in the report.

18 “(3) PUBLICATION OF FINAL RECOMMENDA-
19 TIONS.—Not later than 30 days following the con-
20 clusion of the public feedback process described in
21 paragraph (2)(B), the Secretary shall publish final
22 recommendations for the Director of the Bureau of
23 Consumer Financial Protection related to the pro-
24 mulgation of regulations under section

1 128(e)(17)(A) of the Truth in Lending Act (15
2 U.S.C. 1638(e)(17)(A)).

3 “(4) POLICY DIRECTION TO FEDERAL STUDENT
4 AID.—The working group shall develop policy direc-
5 tion for the Office of Federal Student Aid to incor-
6 porate, into contracts awarded under this section,
7 applicable requirements and standards promulgated
8 under section 128(e)(17)(A) of the Truth in Lending
9 Act (15 U.S.C. 1638(e)(17)(A)) or described in sec-
10 tion 128(e)(17)(B)(i)(II) of such Act.

11 “(5) MEETINGS.—After the Secretary publishes
12 final recommendations under paragraph (3), the
13 working group shall meet not less often than once
14 per year including to—

15 “(A) evaluate the application of regulations
16 promulgated under section 128(e)(17)(A) of the
17 Truth in Lending Act (15 U.S.C.
18 1638(e)(17)(A)) on entities with which the Sec-
19 retary has entered into a contract under this
20 section;

21 “(B) evaluate the Office of Federal Stu-
22 dent Aid’s implementation of policy direction
23 developed pursuant to paragraph (4);

24 “(C) develop and implement an oversight
25 plan to ensure compliance by entities with

1 which the Secretary has entered into a contract
 2 under this section with policy direction devel-
 3 oped under paragraph (4) and regulations pro-
 4 mulgated under section 128(e)(17)(A) of the
 5 Truth in Lending Act (15 U.S.C.
 6 1638(e)(17)(A)) or described in section
 7 128(e)(17)(B)(i)(II) of such Act; and

8 “(D) undertake other activities to improve
 9 coordination among the members of the work-
 10 ing group as it relates to the Secretary’s admin-
 11 istration of the Federal Direct Loan Program.

12 “(6) RULE OF CONSTRUCTION.—Nothing in
 13 this subsection shall be considered to alter, limit, or
 14 restrict the Bureau of Consumer Financial Protec-
 15 tion’s obligations under chapter 5 of title 5, United
 16 States Code (commonly known as the ‘Administra-
 17 tive Procedures Act’), including the Director’s obli-
 18 gation to provide notice, solicit public comment, and
 19 respond to such comment when issuing regula-
 20 tions.”.

21 **SEC. 3. TRUTH IN LENDING ACT AMENDMENTS.**

22 (a) IN GENERAL.—The Truth in Lending Act (15
 23 U.S.C. 1601 et seq.) is amended—

24 (1) in section 128 (15 U.S.C. 1638)—

25 (A) in subsection (e)—

1 (i) in the subsection heading, by strik-
 2 ing “PRIVATE”;

3 (ii) in paragraph (1)(O), by striking
 4 “paragraph (6)” and inserting “paragraph
 5 (10)”;

6 (iii) in paragraph (2)(L), by striking
 7 “paragraph (6)” and inserting “paragraph
 8 (10)”;

9 (iv) in paragraph (4)(C), by striking
 10 “paragraph (7)” and inserting “paragraph
 11 (11)”;

12 (v) by redesignating paragraphs (5)
 13 through (11) as paragraphs (9) through
 14 (15), respectively;

15 (vi) by inserting after paragraph (4)
 16 the following:

17 “(5) DISCLOSURES BEFORE FIRST FULLY AM-
 18 ORTIZED PAYMENT.—Not fewer than 30 days and
 19 not more than 150 days before the first fully amor-
 20 tized payment on a postsecondary education loan is
 21 due from the borrower, the postsecondary edu-
 22 cational lender or servicer shall disclose to the bor-
 23 rower, clearly and conspicuously—

24 “(A) the information described in—

1 “(i) paragraph (2)(A) (adjusted, as
2 necessary, for the rate of interest in effect
3 on the date the first fully amortized pay-
4 ment on a postsecondary education loan is
5 due);

6 “(ii) subparagraphs (B) through (G)
7 of paragraph (2);

8 “(iii) paragraph (2)(H) (adjusted, as
9 necessary, for the rate of interest in effect
10 on the date the first fully amortized pay-
11 ment on a postsecondary education loan is
12 due);

13 “(iv) paragraph (2)(K); and

14 “(v) subparagraphs (O) and (P) of
15 paragraph (2);

16 “(B) the scheduled date upon which the
17 first fully amortized payment is due;

18 “(C) the name of the postsecondary edu-
19 cational lender and servicer, and the address to
20 which communications and payments should be
21 sent including a telephone number and website
22 where the borrower may obtain additional infor-
23 mation;

24 “(D) a description of alternative repay-
25 ment options, including Federal Direct Consoli-

1 dation Loans under part D of title IV of the
 2 Higher Education Act of 1965 (20 U.S.C.
 3 1087a et seq.), as applicable, and servicemem-
 4 ber or veteran benefits under the
 5 Servicemembers Civil Relief Act (50 U.S.C.
 6 App. 501 et seq.) or other Federal or State law
 7 related to postsecondary education loans; and

8 “(E) a statement that a Servicemember
 9 and Veterans Liaison designated under para-
 10 graph (16)(K) is available to answer inquiries
 11 about servicemember and veteran benefits re-
 12 lated to postsecondary education loans, includ-
 13 ing the toll-free telephone number to contact
 14 the Liaison pursuant to paragraph (16)(K).

15 “(6) DISCLOSURES WHEN BORROWER IS AT
 16 RISK.—

17 “(A) IN GENERAL.—Not more than 5 days
 18 after a postsecondary educational lender or
 19 servicer determines that a borrower meets the
 20 criteria established in paragraph (16)(J)(i), the
 21 postsecondary educational lender or servicer
 22 shall disclose to the borrower, in writing, clearly
 23 and conspicuously that a repayment specialist
 24 office or unit is available to discuss alternative
 25 repayment options and answer borrower inquir-

ies related to their postsecondary educational loan, including the toll-free number to contact the office or unit pursuant to paragraph (16)(J)(iii).

“(B) OUTREACH TO AT-RISK BORROWERS.—The Director, in accordance with paragraph (17)(A), shall promulgate rules to establish a timeline for additional live outreach by the repayment specialist office or unit to at-risk borrowers.

“(7) ACTIONS WHEN BORROWER IS 30 DAYS DELINQUENT.—

“(A) IN GENERAL.—Not more than 5 days after a borrower becomes 30 days delinquent on a postsecondary education loan, the repayment specialist office or unit designated under paragraph (16)(J) shall—

“(i) make a good faith effort to establish live contact with the borrower to discuss alternative repayment options and other options available to avoid default; and

“(ii) disclose to the borrower, in writing, clearly and conspicuously—

1 “(I) the minimum payment that
2 the borrower must make to bring the
3 loan current;

4 “(II) a statement, related to po-
5 tential charge off (as defined in para-
6 graph (16)(A)) or assignment to col-
7 lections as appropriate, to include—

8 “(aa) the date on which the
9 loan will be charged off or as-
10 signed to collections if no pay-
11 ment or the minimum payment
12 required to be disclosed pursuant
13 to item (bb) is not made;

14 “(bb) the minimum payment
15 that must be made to avoid the
16 loan being charged off or as-
17 signed to collection; and

18 “(cc) the consequences to
19 the borrower of charge off or as-
20 signment to collections;

21 “(III) a statement that a Service-
22 member and Veterans Liaison des-
23 ignated under paragraph (16)(K) is
24 available to answer inquiries about
25 servicemember and veteran benefits

1 related to postsecondary education
2 loans, including the toll-free telephone
3 number to contact the Liaison pursu-
4 ant to paragraph (16)(K); and

5 “(IV) a statement that a repay-
6 ment specialist office or unit des-
7 ignated under paragraph (16)(J) is
8 available to answer inquiries related to
9 alternative repayment options, includ-
10 ing the toll-free telephone number to
11 contact the specialist pursuant to
12 paragraph (16)(J)(iii).

13 “(B) MODIFICATIONS.—The disclosures
14 described in subparagraph (A)(ii) may be modi-
15 fied subject to regulations promulgated by the
16 Director, based on consumer testing and in ac-
17 cordance with paragraph (17)(A).

18 “(8) ACTIONS WHEN BORROWER IS HAVING
19 DIFFICULTY MAKING PAYMENT OR IS 60 DAYS DE-
20 LINQUENT.—

21 “(A) IN GENERAL.—Not more than 5 days
22 after a borrower notifies a postsecondary edu-
23 cational lender or servicer that the borrower is
24 having difficulty making payment or a borrower
25 becomes 60 days delinquent on a postsecondary

1 education loan, the repayment specialist office
2 or unit designated under paragraph (16)(J)
3 shall—

4 “(i) complete a full review of the bor-
5 rower’s postsecondary education loan and
6 make a reasonable effort to obtain the in-
7 formation necessary to determine—

8 “(I) if the borrower is eligible for
9 an alternative repayment option, in-
10 cluding Federal Direct Consolidation
11 Loans under part D of title IV of the
12 Higher Education Act of 1965 (20
13 U.S.C. 1087a et seq.), as applicable;

14 “(II) if the borrower is eligible
15 for servicemember or veteran benefits
16 under the Servicemembers Civil Relief
17 Act (50 U.S.C. App. 501 et seq.) or
18 other Federal or State law related to
19 postsecondary education loans; and

20 “(III) if the postsecondary edu-
21 cation loan is eligible for discharge by
22 the Secretary;

23 “(ii) make a good faith effort to es-
24 tablish live contact with the borrower to
25 provide the borrower information about al-

1 ternative repayment options and benefits
2 for which the borrower is eligible, including
3 all terms, conditions, and fees or costs as-
4 sociated with such repayment plan, pursu-
5 ant to paragraph (9)(D);

6 “(iii) provide to the borrower in writ-
7 ing, in simple and understandable terms,
8 such information required by clause (ii);

9 “(iv) allow the borrower not less than
10 30 days to apply for an alternative repay-
11 ment option or benefits, if eligible;

12 “(v) notify the borrower that a Serv-
13 icemember and Veterans Liaison des-
14 ignated under paragraph (16)(K) is avail-
15 able to answer inquiries about servicemem-
16 ber and veteran benefits related to postsec-
17 ondary education loans, including the toll-
18 free telephone number to contact the Liai-
19 son pursuant to paragraph (16)(K); and

20 “(vi) notify the borrower that a repay-
21 ment specialist office or unit designated
22 under paragraph (16)(J) is available to an-
23 swer inquiries related to alternative repay-
24 ment options, including the toll-free tele-

1 phone number to contact the specialist
2 pursuant to paragraph (16)(J)(iii).

3 “(B) FORBEARANCE OR DEFERMENT.—If,
4 after receiving information about alternative re-
5 payment options from the repayment specialist,
6 a borrower notifies the postsecondary edu-
7 cational lender or servicer that a long-term al-
8 ternative repayment option is not appropriate,
9 the postsecondary educational lender or servicer
10 may comply with this paragraph by providing
11 the borrower, in writing, in simple and under-
12 standable terms, information about short-term
13 options to address an anticipated short-term
14 difficulty in making payments, such as forbear-
15 ance or deferment options, including all terms,
16 conditions, and fees or costs associated with
17 such options pursuant to paragraph (9)(D).

18 “(C) NOTIFICATION PROCESS.—

19 “(i) IN GENERAL.—Each postsec-
20 ondary educational lender or servicer shall
21 establish a process, in accordance with
22 subparagraph (A), for a borrower to notify
23 the lender that—

1 “(I) the borrower is having dif-
 2 ficulty making payments on a postsec-
 3 ondary education loan; and

4 “(II) a long-term alternative re-
 5 payment option is not appropriate.

6 “(ii) CONSUMER FINANCIAL PROTEC-
 7 TION BUREAU REQUIREMENTS.—The Di-
 8 rector shall, based on consumer testing,
 9 and in accordance with paragraph (17)(A),
 10 promulgate rules establishing minimum
 11 standards for postsecondary educational
 12 lenders or servicers in carrying out the re-
 13 quirements of this paragraph and a model
 14 form for borrowers to notify postsecondary
 15 educational lenders or servicers of the in-
 16 formation under this paragraph.”;

17 (vii) in paragraph (9), as redesignated
 18 by clause (v), by adding at the end the fol-
 19 lowing:

20 “(D) MODEL DISCLOSURE FORM FOR AL-
 21 TERNATIVE REPAYMENT OPTIONS, FORBEAR-
 22 ANCE, AND DEFERMENT OPTIONS.—Not later
 23 than 2 years after the date of enactment of the
 24 Student Loan Borrower Bill of Rights, the Di-
 25 rector shall, based on consumer testing and

1 through regulations promulgated in accordance
2 with paragraph (17)(A), develop and issue
3 model forms to allow borrowers to compare al-
4 ternative repayment options, forbearance, and
5 deferment options with the borrower's existing
6 repayment plan with respect to a postsecondary
7 education loan. In developing such forms, the
8 Director shall consider and evaluate the fol-
9 lowing for inclusion:

10 “(i) The total amount to be paid over
11 the life of the loan.

12 “(ii) The total amount in interest to
13 be paid over the life of the loan.

14 “(iii) The monthly payment amount.

15 “(iv) The expected pay-off date.

16 “(v) Other related fees and costs, as
17 applicable.

18 “(vi) Eligibility requirements, and
19 how the borrower can apply for an alter-
20 native repayment option, forbearance, or
21 deferment option.

22 “(vii) Any relevant consequences due
23 to action or inaction, such as default, in-
24 cluding any actions that would result in
25 the loss of eligibility for alternative repay-

ment options, forbearance, or deferment options.”;

(viii) in paragraph (12), as redesignated by clause (v), by striking “paragraph (7)” and inserting “paragraph (11)”;

(ix) by striking paragraph (14), as redesignated by clause (v), and inserting the following:

“(14) DEFINITIONS.—In this subsection—

“(A) the terms ‘covered educational institution’, ‘private educational lender’, and ‘private education loan’ have the same meanings as in section 140;

“(B) the term ‘postsecondary education loan’ means—

“(i) a private education loan; or

“(ii) a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., and 1087aa et seq.);

“(C) the term ‘postsecondary educational lender or servicer’ means—

“(i) an eligible lender of a loan made, insured, or guaranteed under part B of the

1 Higher Education Act of 1965 (20 U.S.C.
2 1071 et seq.);

3 “(ii) any entity with which the Sec-
4 retary enters into a contract under section
5 456 of the Higher Education Act of 1965
6 (20 U.S.C. 1087f) for origination, serv-
7 icing, or collection described in subsection
8 (b) of such section 456 and is engaged in
9 the provision of, or offering, servicing, as
10 defined in paragraph (16)(A)(iv), or collec-
11 tions regardless of whether the Secretary
12 identifies the entity as a ‘servicer’ in such
13 contract;

14 “(iii) a private educational lender;

15 “(iv) any other person or entity en-
16 gaged in the business of securing, making,
17 or extending postsecondary education loans
18 on behalf of a person or entity described in
19 clause (i) or (iii); or

20 “(v) any other holder of a postsec-
21 ondary education loan other than the Sec-
22 retary;

23 “(D) the term ‘Director’ means the Direc-
24 tor of the Bureau; and

“(E) the term ‘Secretary’ means the Secretary of Education.”;

(x) in paragraph (15), as redesignated by clause (v), by striking “paragraph (5)” and inserting “paragraph (9)”; and

(xi) by adding at the end the following:

“(16) STUDENT LOAN BORROWER BILL OF RIGHTS.—

“(A) DEFINITIONS.—In this paragraph:

“(i) BORROWER.—The term ‘borrower’ means the person to whom a postsecondary education loan is extended.

“(ii) CHARGE OFF.—The term ‘charge off’ means charge to profit and loss, or subject to any similar action.

“(iii) QUALIFIED WRITTEN REQUEST.—

“(I) IN GENERAL.—The term ‘qualified written request’ means a written correspondence of a borrower (other than notice on a payment medium supplied by the postsecondary educational lender or servicer) transmitted by mail, facsimile, or electroni-

1 cally through an email address or
 2 website designated by the postsec-
 3 ondary educational lender or servicer
 4 to receive communications from bor-
 5 rowers that—

6 “(aa) includes, or otherwise
 7 enables the postsecondary edu-
 8 cational lender or servicer to
 9 identify, the name and account of
 10 the borrower; and

11 “(bb) includes, to the extent
 12 applicable—

13 “(AA) sufficient detail
 14 regarding the information
 15 sought by the borrower; or

16 “(BB) a statement of
 17 the reasons for the belief of
 18 the borrower that there is
 19 an error regarding the ac-
 20 count of the borrower.

21 “(II) CORRESPONDENCE DELIV-
 22 ERED TO OTHER ADDRESSES.—

23 “(aa) IN GENERAL.—A writ-
 24 ten correspondence of a borrower
 25 is a qualified written request if

1 the written correspondence is
2 transmitted to and received by a
3 postsecondary educational lender
4 or servicer at a mailing address,
5 facsimile number, email address,
6 or website address other than the
7 address or number designated by
8 that postsecondary educational
9 lender or servicer to receive com-
10 munications from borrowers but
11 the written correspondence meets
12 the requirements under items
13 (aa) and (bb) of subclause (I).

14 “(bb) DUTY TO TRANS-
15 FER.—A postsecondary edu-
16 cational lender or servicer shall,
17 within a reasonable period of
18 time, transfer a written cor-
19 respondence of a borrower re-
20 ceived by the postsecondary edu-
21 cational lender or servicer at a
22 mailing address, facsimile num-
23 ber, email address, or website ad-
24 dress other than the address or
25 number designated by that post-

1 secondary educational lender or
 2 servicer to receive communica-
 3 tions from borrowers to the cor-
 4 rect address or appropriate office
 5 or other unit of the postsec-
 6 ondary educational lender or
 7 servicer.

8 “(cc) DATE OF RECEIPT.—A
 9 written correspondence of a bor-
 10 rower transferred in accordance
 11 with item (bb) shall be deemed to
 12 be received by the postsecondary
 13 educational lender or servicer on
 14 the date on which the written
 15 correspondence is transferred to
 16 the correct address or appro-
 17 priate office or other unit of the
 18 postsecondary educational lender
 19 or servicer.

20 “(iv) SERVICING.—The term ‘serv-
 21 icing’ means 1 or more of the following:

22 “(I) Receiving any scheduled
 23 periodic payments from a borrower or
 24 notification of such payments pursu-
 25 ant to the terms of a postsecondary

1 education loan or contract governing
2 the servicing.

3 “(II) Applying payments to the
4 borrower’s account pursuant to the
5 terms of the postsecondary education
6 loan or the contract governing the
7 servicing.

8 “(III) Maintaining account
9 records for a postsecondary education
10 loan.

11 “(IV) Communicating with a bor-
12 rower regarding a postsecondary edu-
13 cation loan on behalf of the postsec-
14 ondary educational lender or servicer.

15 “(V) Interactions with a bor-
16 rower, including activities to help pre-
17 vent default on obligations arising
18 from postsecondary education loans,
19 conducted to facilitate the activities
20 described in subclause (I) or (II).

21 “(B) SALE, TRANSFER, OR ASSIGNMENT.—

22 If the sale, other transfer, assignment, or trans-
23 fer of servicing obligations of a postsecondary
24 education loan results in a change in the iden-
25 tity of the party to whom the borrower must

1 send subsequent payments or direct any com-
2 munications concerning the loan—

3 “(i) the transferor shall—

4 “(I) notify the borrower, in writ-
5 ing, in simple and understandable
6 terms, not fewer than 45 days before
7 transferring a legally enforceable right
8 to receive payment from the borrower
9 on such loan, of—

10 “(aa) the sale or other
11 transfer, assignment, or transfer
12 of servicing obligations;

13 “(bb) the identity of the
14 transferee;

15 “(cc) the name and address
16 of the party to whom subsequent
17 payments or communications
18 must be sent;

19 “(dd) the telephone numbers
20 and websites of both the trans-
21 feror and the transferee;

22 “(ee) the effective date of
23 the sale, transfer, or assignment;

1 “(ff) the date on which the
2 transferor will stop accepting
3 payment; and

4 “(gg) the date on which the
5 transferee will begin accepting
6 payment;

7 “(II) forward any payment from
8 a borrower with respect to such post-
9 secondary education loan to the trans-
10 feree, immediately upon receiving such
11 payment, during the 60-day period be-
12 ginning on the date on which the
13 transferor stops accepting payment of
14 such postsecondary education loan;

15 “(III) provide to the transferee
16 all borrower information and complete
17 payment history information for any
18 such postsecondary education loans;
19 and

20 “(ii) the transferee shall—

21 “(I) notify the borrower, in writ-
22 ing, in simple and understandable
23 terms, not fewer than 45 days before
24 acquiring a legally enforceable right to

1 receive payment from the borrower on
2 such loan, of—

3 “(aa) the sale or other
4 transfer, assignment, or transfer
5 of servicing obligations;

6 “(bb) the identity of the
7 transferor;

8 “(cc) the name and address
9 of the party to whom subsequent
10 payments or communications
11 must be sent;

12 “(dd) the telephone numbers
13 and websites of both the trans-
14 feror and the transferee;

15 “(ee) the effective date of
16 the sale, transfer, assignment, or
17 transfer of servicing obligations;

18 “(ff) the date on which the
19 transferor will stop accepting
20 payment; and

21 “(gg) the date on which the
22 transferee will begin accepting
23 payment;

24 “(II) accept as on-time and may
25 not impose any late fee or finance

1 charge for any payment from a bor-
 2 rower with respect to such postsec-
 3 ondary education loan that is for-
 4 warder from the transferor during the
 5 90-day period beginning on the date
 6 on which the transferor stops accept-
 7 ing payment, if the transferor receives
 8 such payment on or before the appli-
 9 cable due date, including any grace
 10 period;

11 “(III) provide borrowers a sim-
 12 ple, online process for transferring ex-
 13 isting electronic fund transfer author-
 14 ity; and

15 “(IV) honor any promotion or
 16 benefit available or granted to the
 17 borrower or advertised by the previous
 18 owner or transferor of such postsec-
 19 ondary education loan.

20 “(C) MATERIAL CHANGE IN MAILING AD-
 21 DRESS OR PROCEDURE FOR HANDLING PAY-
 22 MENTS.—

23 “(i) IN GENERAL.—If a postsecondary
 24 educational lender or servicer makes a
 25 change in the mailing address, office, or

1 procedures for handling payments with re-
2 spect to any postsecondary education loan,
3 the postsecondary educational lender or
4 servicer shall notify the borrower in writing
5 and through the borrower's preferred or
6 designated method of communication not
7 less than 45 calendar days in advance of
8 such change.

9 “(ii) BORROWER PROTECTION WIN-
10 DOW.—If a change described in clause (i)
11 causes a delay in the crediting of the ac-
12 count of the borrower made during the 90-
13 day period following the date on which
14 such change took effect, the postsecondary
15 educational lender or servicer may not im-
16 pose on the borrower any negative con-
17 sequences, including negative credit report-
18 ing, lost eligibility in borrower benefits,
19 late fees, interest capitalization, or other
20 financial injury.

21 “(D) INTEREST RATE AND TERM CHANGES
22 FOR CERTAIN POSTSECONDARY EDUCATION
23 LOANS.—

24 “(i) NOTIFICATION REQUIREMENTS.—

1 “(I) IN GENERAL.—Except as
2 provided in clause (iii), a postsec-
3 ondary educational lender or servicer
4 shall provide written notice to a bor-
5 rower of any material change in the
6 terms of the postsecondary education
7 loan, including an increase in the in-
8 terest rate, not later than 45 days be-
9 fore the effective date of the change
10 or increase.

11 “(II) MATERIAL CHANGES IN
12 TERMS.—The Director shall, by regu-
13 lation, establish guidelines for deter-
14 mining which changes in terms are
15 material under subclause (I).

16 “(ii) LIMITS ON INTEREST RATE AND
17 FEE INCREASES APPLICABLE TO OUT-
18 STANDING BALANCE.—Except as provided
19 in clause (iii), a postsecondary educational
20 lender or servicer may not increase the in-
21 terest rate or other fee applicable to an
22 outstanding balance on a postsecondary
23 education loan.

1 “(iii) EXCEPTIONS.—The require-
2 ments under clauses (i) and (ii) shall not
3 apply to—

4 “(I) an increase based on an ap-
5 plicable variable interest rate incor-
6 porated in the terms of a postsec-
7 ondary education loan that provides
8 for changes in the interest rate ac-
9 cording to operation of an index that
10 is not under the control of the post-
11 secondary educational lender or
12 servicer and is published for viewing
13 by the general public;

14 “(II) an increase in interest rate
15 due to the completion of a workout or
16 temporary hardship arrangement by
17 the borrower or the failure of the bor-
18 rower to comply with the terms of a
19 workout or temporary hardship ar-
20 rangement if—

21 “(aa) the interest rate appli-
22 cable to a category of trans-
23 actions following any such in-
24 crease does not exceed the rate
25 or fee that applied to that cat-

1 egory of transactions prior to
2 commencement of the arrange-
3 ment; and

4 “(bb) the postsecondary edu-
5 cational lender or servicer has
6 provided the borrower, prior to
7 the commencement of such ar-
8 rangement, with clear and con-
9 spicuous disclosure of the terms
10 of the arrangement (including
11 any increases due to such com-
12 pletion or failure); and

13 “(III) an increase in interest rate
14 due to a provision included within the
15 terms of a postsecondary education
16 loan that provides for a lower interest
17 rate based on the borrower’s agree-
18 ment to a prearranged plan that au-
19 thorizes recurring electronic funds
20 transfers if—

21 “(aa) the borrower with-
22 draws the borrower’s authoriza-
23 tion of the prearranged recurring
24 electronic funds transfer plan;
25 and

1 “(bb) after withdrawal of
2 the borrower’s authorization and
3 prior to increasing the interest
4 rate, the postsecondary edu-
5 cational lender or servicer has
6 provided the borrower with clear
7 and conspicuous disclosure of the
8 impending change in borrower’s
9 interest rate and a reasonable op-
10 portunity to reauthorize the pre-
11 arranged electronic funds trans-
12 fers plan.

13 “(E) PAYMENT INFORMATION.—

14 “(i) STATEMENT REQUIRED WITH
15 EACH BILLING CYCLE.—A postsecondary
16 educational lender or servicer for each bor-
17 rower’s account that is being serviced by
18 the postsecondary educational lender or
19 servicer and that includes a postsecondary
20 education loan shall transmit to the bor-
21 rower, for each billing cycle during which
22 there is an outstanding balance in that ac-
23 count, a statement that includes—

1 “(I) the interest rate, principal
2 balance, minimum monthly payment,
3 and payment due date for each loan;

4 “(II) the outstanding balance in
5 the account and each loan at the be-
6 ginning of the billing cycle;

7 “(III) the total amount credited
8 to the account and each loan during
9 the billing cycle;

10 “(IV) the total amount of unpaid
11 interest for the account and each loan;

12 “(V) the amount of any fee
13 added to the account during the bill-
14 ing cycle, itemized to show each indi-
15 vidual fee amount and reason for each
16 fee;

17 “(VI) the address and phone
18 number of the postsecondary edu-
19 cational lender or servicer to which
20 the borrower may direct billing inquir-
21 ies;

22 “(VII) the amount of any pay-
23 ments or other credits during the bill-
24 ing cycle that was applied respectively

1 to the principal and to interest for
2 each loan;

3 “(VIII) the manner, pursuant to
4 subparagraph (G), in which payments
5 will be allocated among multiple loans
6 if the borrower does not provide spe-
7 cific payment instructions;

8 “(IX) whether each loan is in
9 deferment or forbearance;

10 “(X) information on how to file a
11 complaint with the Bureau and with
12 the ombudsman designated pursuant
13 to section 1035 of the Consumer Fi-
14 nancial Protection Act of 2010 (12
15 U.S.C. 5535) and the Department of
16 Education;

17 “(XI) for any borrower consid-
18 ered to be at risk, as described in sub-
19 paragraph (J)(i), a statement that a
20 repayment specialist office or unit
21 designated under subparagraph (J) is
22 available to answer inquiries related to
23 alternative repayment options, includ-
24 ing the toll-free telephone number to

1 contact the specialist pursuant to sub-
 2 paragraph (J)(iii); and

3 “(XII) any other information de-
 4 termined appropriate by the Director
 5 through regulations promulgated,
 6 based on consumer testing and in ac-
 7 cordance with paragraph (17)(A).

8 “(ii) DISCLOSURE OF PAYMENT DEAD-
 9 LINES.—In the case of a postsecondary
 10 education loan account under which a late
 11 fee or charge may be imposed due to the
 12 failure of the borrower to make payment
 13 on or before the due date for such pay-
 14 ment, the billing statement required under
 15 clause (i) with respect to the account shall
 16 include, in a conspicuous location on the
 17 billing statement, the date on which the
 18 payment is due or, if different, the date on
 19 which a late fee will be charged, together
 20 with the amount of the late fee to be im-
 21 posed if payment is made after that date.

22 “(F) APPLICATION OF PAYMENTS.—

23 “(i) APPLY PAYMENT ON DATE RE-
 24 CEIVED.—Unless otherwise directed by the
 25 borrower, a postsecondary educational

1 lender or servicer shall apply payments to
2 a borrower's account on the date the pay-
3 ment is received.

4 “(ii) PROMULGATION OF RULES.—
5 The Director, in accordance with para-
6 graph (17)(A), may promulgate rules for
7 the application of postsecondary education
8 loan payments that—

9 “(I) implements the requirements
10 in this section;

11 “(II) minimizes the amount of
12 fees and interest incurred by the bor-
13 rower and the total loan amount paid
14 by the borrower;

15 “(III) minimizes delinquencies,
16 assignments to collection, and charge
17 offs;

18 “(IV) requires postsecondary
19 educational lenders or servicers to
20 apply payments on the date received;
21 and

22 “(V) allows the borrower to in-
23 struct the postsecondary educational
24 lender or servicer to apply payments

1 in a manner preferred by the bor-
2 rower.

3 “(iii) METHOD THAT BEST BENEFITS
4 BORROWER.—In promulgating the rules
5 under clause (ii), the Director shall choose
6 the allocation method that best benefits the
7 borrower and is compatible with existing
8 repayment options.

9 “(G) ALLOCATION OF PAYMENTS AMONG
10 MULTIPLE LOANS.—

11 “(i) ALLOCATION OF UNDERPAY-
12 MENTS.—Unless otherwise directed by the
13 borrower, upon receipt of a payment that
14 does not satisfy the full amount due for
15 each postsecondary education loan, the
16 postsecondary educational lender or
17 servicer shall allocate amounts in a manner
18 that minimizes negative consequences, in-
19 cluding negative credit reporting and late
20 fees, and, where multiple loans share an
21 equal stage of delinquency, the postsec-
22 ondary educational lender or servicer shall
23 first allocate payment to the postsecondary
24 education loan with the smallest monthly
25 payment, and then, after satisfying that

1 monthly payment, to each successive loan
2 bearing the next highest monthly payment,
3 until the payment is exhausted. A borrower
4 may instruct or expressly authorize a post-
5 secondary educational lender or servicer to
6 allocate payments in a different manner.

7 “(ii) ALLOCATION OF EXCESS
8 AMOUNTS.—Unless otherwise directed by
9 the borrower, upon receipt of a payment
10 exceeding the total amount due among all
11 the borrower’s postsecondary education
12 loans, the postsecondary educational lender
13 or servicer shall satisfy the amounts due
14 for each loan, and then allocate amounts in
15 excess of the minimum payment amount
16 first to the postsecondary education loan
17 balance bearing the highest annual per-
18 centage rate, and then, once that loan is
19 repaid, to each successive postsecondary
20 education loan bearing the next highest an-
21 nual percentage rate, until the payment is
22 exhausted. A borrower may instruct or ex-
23 pressly authorize a postsecondary edu-
24 cational lender or servicer to allocate such
25 excess payments in a different manner.

1 “(iii) ALLOCATION OF EXACT PAY-
2 MENTS.—Unless otherwise directed by the
3 borrower upon receipt of a payment that
4 exactly satisfies the monthly payments for
5 each loan, the postsecondary educational
6 lender or servicer shall allocate payments
7 to satisfy each monthly payment.

8 “(iv) PROMULGATION OF RULES.—
9 The Director, in accordance with para-
10 graph (17)(A), may promulgate rules for
11 the allocation of payments among multiple
12 postsecondary education loans that—

13 “(I) implements the requirements
14 in this section;

15 “(II) minimizes the amount of
16 fees and interest incurred by the bor-
17 rower and the total loan amount paid
18 by the borrower;

19 “(III) minimizes delinquencies,
20 assignments to collection, and charge
21 offs;

22 “(IV) requires postsecondary
23 educational lenders or servicers to
24 apply payments on the date received;
25 and

1 “(V) allows the borrower to in-
2 struct postsecondary educational lend-
3 ers or servicers to apply payments in
4 a manner preferred by the borrower,
5 including excess payments.

6 “(v) METHOD THAT BEST BENEFITS
7 BORROWER.—In promulgating the rules
8 under clause (iv), the Director shall choose
9 the allocation method that best benefits the
10 borrower and is compatible with existing
11 repayment options.

12 “(H) LATE FEES.—

13 “(i) IN GENERAL.—A late fee may not
14 be charged to a borrower for a postsec-
15 ondary education loan under any of the fol-
16 lowing circumstances, either individually or
17 in combination:

18 “(I) On a per-loan basis when a
19 borrower has multiple postsecondary
20 education loans.

21 “(II) In an amount greater than
22 4 percent of the amount of the pay-
23 ment past due.

1 “(III) Before the end of the 15-
2 day period beginning on the date the
3 payment is due.

4 “(IV) More than once with re-
5 spect to a single late payment.

6 “(V) The borrower fails to make
7 a singular, non-successive regularly
8 scheduled payment on the postsec-
9 ondary education loan.

10 “(ii) COORDINATION WITH SUBSE-
11 QUENT LATE FEES.—No late fee may be
12 charged to a borrower for a postsecondary
13 education loan relating to an insufficient
14 payment if the payment is made on or be-
15 fore the due date of the payment, or within
16 any applicable grace period for the pay-
17 ment, if the insufficiency is attributable
18 only to a late fee relating to an earlier pay-
19 ment, and the payment is otherwise a full
20 payment for the applicable period.

21 “(iii) PAYMENTS AT LOCAL
22 BRANCHES.—If the loan holder, in the case
23 of a postsecondary education loan account
24 referred to in subparagraph (A), is a fi-
25 nancial institution that maintains a branch

1 or office at which payments on any such
 2 account are accepted from the borrower in
 3 person, the date on which the borrower
 4 makes a payment on the account at such
 5 branch or office shall be considered to be
 6 the date on which the payment is made for
 7 purposes of determining whether a late fee
 8 may be imposed due to the failure of the
 9 borrower to make payment on or before
 10 the due date for such payment.

11 “(I) BORROWER INQUIRIES.—

12 “(i) DUTY OF POSTSECONDARY EDU-
 13 CATIONAL LENDERS OR SERVICERS TO RE-
 14 SPOND TO BORROWER INQUIRIES.—

15 “(I) NOTICE OF RECEIPT OF RE-
 16 QUEST.—If a borrower submits a
 17 qualified written request to the post-
 18 secondary educational lender or
 19 servicer for information relating to the
 20 servicing of the postsecondary edu-
 21 cation loan, the postsecondary edu-
 22 cational lender or servicer shall pro-
 23 vide a written response acknowledging
 24 receipt of the qualified written request
 25 within 5 business days unless any ac-

tion requested by the borrower is taken within such period.

“(II) ACTION WITH RESPECT TO INQUIRY.—Not later than 30 business days after the receipt from a borrower of a qualified written request under subclause (I) and, if applicable, before taking any action with respect to the qualified written request of the borrower, the postsecondary educational lender or servicer shall—

“(aa) make appropriate corrections in the account of the borrower, including the crediting of any late fees, and transmit to the borrower a written notification of such correction (which shall include the name and toll-free or collect-call telephone number of a representative of the postsecondary educational lender or servicer who can provide assistance to the borrower);

“(bb) after conducting an investigation, provide the bor-

1 rower with a written explanation
2 or clarification that includes—

3 “(AA) to the extent ap-
4 plicable, a statement of the
5 reasons for which the post-
6 secondary educational lender
7 or servicer believes the ac-
8 count of the borrower is cor-
9 rect as determined by the
10 postsecondary educational
11 lender or servicer; and

12 “(BB) the name and
13 toll-free or collect-call tele-
14 phone number of an indi-
15 vidual employed by, or the
16 office or department of, the
17 postsecondary educational
18 lender or servicer who can
19 provide assistance to the
20 borrower; or

21 “(cc) after conducting an in-
22 vestigation, provide the borrower
23 with a written explanation or
24 clarification that includes—

1 “(AA) information re-
 2 requested by the borrower or
 3 explanation of why the infor-
 4 mation requested is unavail-
 5 able or cannot be obtained
 6 by the postsecondary edu-
 7 cational lender or servicer;
 8 and

9 “(BB) the name and
 10 toll-free or collect-call tele-
 11 phone number of an indi-
 12 vidual employed by, or the
 13 office or department of, the
 14 postsecondary educational
 15 lender or servicer who can
 16 provide assistance to the
 17 borrower.

18 “(III) LIMITED EXTENSION OF
 19 RESPONSE TIME.—

20 “(aa) IN GENERAL.—There
 21 may be 1 extension of the 30-day
 22 period described in subclause (II)
 23 of not more than 15 days if, be-
 24 fore the end of such 30-day pe-
 25 riod, the postsecondary edu-

1 cational lender or servicer noti-
2 fies the borrower of the extension
3 and the reasons for the delay in
4 responding.

5 “(bb) REPORTS TO BU-
6 REAU.—Each postsecondary edu-
7 cational lender or servicer shall,
8 on an annual basis, report to the
9 Bureau the aggregate number of
10 extensions sought by the such
11 postsecondary educational lender
12 or servicer under item (aa).

13 “(ii) PROTECTION AGAINST NEGATIVE
14 CONSEQUENCES.—During the 60-day pe-
15 riod beginning on the date on which a
16 postsecondary educational lender or
17 servicer receives a qualified written request
18 from a borrower relating to a dispute re-
19 garding payments by the borrower, a post-
20 secondary educational lender or servicer
21 may not impose any negative consequences
22 on the borrower relating to the subject of
23 the qualified written request or to such pe-
24 riod including—

1 “(I) providing negative credit in-
 2 formation to any consumer reporting
 3 agency (as defined in section 603 of
 4 the Fair Credit Reporting Act (15
 5 U.S.C. 1681a));

6 “(II) lost eligibility for a bor-
 7 rower benefit;

8 “(III) late fees;

9 “(IV) interest capitalization; or

10 “(V) other financial injury.

11 “(J) REPAYMENT SPECIALISTS FOR AT-
 12 RISK BORROWERS.—

13 “(i) AT-RISK BORROWERS.—A post-
 14 secondary educational lender or servicer
 15 shall designate an office or other unit to
 16 act as a repayment specialist regarding
 17 postsecondary education loans for—

18 “(I) any borrower who—

19 “(aa) becomes 30 calendar
 20 days or more delinquent under
 21 the postsecondary education loan;
 22 or

23 “(bb) notifies the postsec-
 24 ondary educational lender or
 25 servicer pursuant to paragraph

1 (8)(C) that the borrower is hav-
2 ing difficulty making payment;

3 “(II) any borrower who requests
4 information related to options to re-
5 duce or suspend the borrower’s
6 monthly payment, or otherwise indi-
7 cates that the borrower is experi-
8 encing or is about to experience finan-
9 cial hardship or distress;

10 “(III) any borrower who has not
11 completed the program of study for
12 which the borrower received the loans;

13 “(IV) any borrower who is en-
14 rolled in discretionary forbearance for
15 more than 9 of the previous 12
16 months;

17 “(V) any borrower who has reha-
18 bilitated or consolidated 1 or more
19 postsecondary education loans out of
20 default within the prior 24 months;

21 “(VI) a borrower who seeks in-
22 formation regarding, seeks to enter an
23 agreement for, or seeks to resolve an
24 issue under a repayment option that

1 requires subsequent submission of
2 supporting documentation;

3 “(VII) a borrower who seeks to
4 modify the terms of the repayment of
5 the postsecondary education loan be-
6 cause of hardship; and

7 “(VIII) any borrower or segment
8 of borrowers determined by the Direc-
9 tor or the Secretary to be at risk.

10 “(ii) TRAINING.—Staff of the repay-
11 ment specialist office or unit designated
12 under clause (i) shall—

13 “(I) receive rigorous, ongoing
14 training related to available repay-
15 ment plans, loan forgiveness, and can-
16 cellation and discharge options; and

17 “(II) be trained to—

18 “(aa) assess the borrower’s
19 long-term and short-term finan-
20 cial situation in discussing alter-
21 native repayment options with
22 borrowers;

23 “(bb) inform borrowers,
24 when there is sufficient informa-
25 tion to determine that a borrower

1 may be eligible, about closed-
2 school discharge, discharge under
3 defense to repayment, or total
4 and permanent disability dis-
5 charge prior to informing the
6 borrower about any other options
7 for repayment; and

8 “(cc) inform borrowers
9 about alternative repayment op-
10 tions, prior to discussing forbear-
11 ance and deferment.

12 “(iii) TOLL-FREE TELEPHONE NUM-
13 BER.—Each postsecondary educational
14 lender or servicer shall maintain a toll-free
15 telephone number that shall—

16 “(I) connect directly to the re-
17 payment specialist office or unit des-
18 ignated under clause (i);

19 “(II) be made available on the
20 primary internet website of the post-
21 secondary educational lender or
22 servicer, on monthly billing state-
23 ments, and any disclosures required
24 by paragraph (6); and

1 “(III) not subject borrowers to
2 unreasonable call wait times.

3 “(iv) COMPENSATION.—Staff of the
4 repayment specialist office or unit des-
5 ignated under clause (i) shall not be com-
6 pensated on the basis of the volume of
7 calls or accounts handled, dollar amounts
8 collected, brevity of calls, or in any other
9 manner that may encourage undue haste
10 and lack of diligence or quality customer
11 service.

12 “(K) SERVICEMEMBERS, VETERANS, AND
13 POSTSECONDARY EDUCATION LOANS.—

14 “(i) SERVICEMEMBER AND VETERANS
15 LIAISON.—Each postsecondary educational
16 lender or servicer shall designate an em-
17 ployee to act as the servicemember and
18 veterans liaison who is responsible for an-
19 swering inquiries from servicemembers and
20 veterans, and is specially trained on serv-
21 icemember and veteran benefits under the
22 Servicemembers Civil Relief Act (50 U.S.C.
23 App. 501 et seq.) and other Federal or
24 State laws related to postsecondary edu-
25 cation loans.

1 “(ii) TOLL-FREE TELEPHONE NUM-
 2 BER.—Each postsecondary educational
 3 lender or servicer shall maintain a toll-free
 4 telephone number that shall—

5 “(I) connect directly to the serv-
 6 icemember and veterans liaison des-
 7 ignated under clause (i);

8 “(II) be made available on the
 9 primary internet website of postsec-
 10 ondary educational lender or servicer
 11 and on monthly billing statements;
 12 and

13 “(III) not subject borrowers to
 14 unreasonable call wait times.

15 “(iii) PROHIBITION ON CHARGE OFFS
 16 AND DEFAULT.—A postsecondary edu-
 17 cational lender or servicer may not charge
 18 off or report a postsecondary education
 19 loan as delinquent, assigned to collection
 20 (internally or by referral to a third party),
 21 in default, or charged off to a credit re-
 22 porting agency if the borrower is on active
 23 duty in the Armed Forces (as defined in
 24 section 101(d)(1) of title 10, United States
 25 Code) serving in a combat zone (as des-

1 ignated by the President under section
2 112(c) of the Internal Revenue Code of
3 1986).

4 “(iv) ADDITIONAL LIAISONS.—The
5 Director, in consultation with the Sec-
6 retary, shall determine additional entities
7 with whom borrowers interact, including
8 guaranty agencies, that shall designate an
9 employee to act as the servicemember and
10 veterans liaison who is responsible for an-
11 swering inquiries from servicemembers and
12 veterans and is specially trained on
13 servicemembers and veteran benefits and
14 option under the Servicemembers Civil Re-
15 lief Act (50 U.S.C. App. 501 et seq.).

16 “(L) BORROWER’S LOAN HISTORY.—

17 “(i) IN GENERAL.—A postsecondary
18 educational lender or servicer shall make
19 available in a secure electronic form usable
20 by borrowers, or in writing upon request,
21 the loan history of each borrower for each
22 postsecondary education loan, separately
23 designating—

24 “(I) payment history, including
25 repayment plan and payments—

1 “(aa) made on such loan to
2 previous postsecondary edu-
3 cational lenders or servicers; and

4 “(bb) qualifying toward a
5 loan forgiveness program and
6 designating such program;

7 “(II) loan history, including any
8 forbearances, deferrals, delinquencies,
9 assignment to collection, and charge
10 offs;

11 “(III) annual percentage rate
12 history;

13 “(IV) key loan terms, including
14 application of payments to interest,
15 principal, and fees, origination date,
16 principal, capitalized interest, annual
17 percentage rate, including any cap,
18 loan term, and any contractual incen-
19 tives;

20 “(V) amount due to pay off the
21 outstanding balance; and

22 “(VI) any other items determined
23 by the Director through regulations
24 promulgated in accordance with para-
25 graph (17)(A).

1 “(ii) ORIGINAL DOCUMENTATION.—A
2 postsecondary educational lender or
3 servicer shall make available to the bor-
4 rower, if requested, at no charge, copies of
5 the original loan documents and the prom-
6 issory note for each postsecondary edu-
7 cation loan.

8 “(M) ERROR RESOLUTION.—The Director,
9 in consultation with the Secretary, shall pro-
10 mulgate rules requiring postsecondary edu-
11 cational lenders or servicers to establish error
12 resolution procedures to allow borrowers to in-
13 quire about errors related to their postsec-
14 ondary education loans and obtain timely reso-
15 lution of such errors.

16 “(N) ADDITIONAL SERVICING STAND-
17 ARDS.—

18 “(i) PROHIBITIONS.—A postsecondary
19 educational lender or servicer may not—

20 “(I) charge a fee for responding
21 to a qualified written request under
22 this paragraph;

23 “(II) fail to take timely action to
24 respond to a qualified written request
25 from a borrower to correct an error

1 relating to an allocation of payment or
2 the payoff amount of the postsec-
3 ondary education loan;

4 “(III) fail to take reasonable
5 steps to avail the borrower of all pos-
6 sible alternative repayment arrange-
7 ments to avoid default;

8 “(IV) fail to perform the obliga-
9 tions required under title IV of the
10 Higher Education Act of 1965 (20
11 U.S.C. 1070 et seq.);

12 “(V) fail to respond within 10
13 business days to a request from a bor-
14 rower to provide the name, address,
15 and other relevant contact information
16 of the loan holder of the borrower’s
17 postsecondary education loan or, for a
18 Federal Direct Loan or a Federal
19 Perkins Loan, the Secretary of Edu-
20 cation, or the institution of higher
21 education who made the loan, respec-
22 tively;

23 “(VI) fail to comply with any ap-
24 plicable requirement of the

1 Servicemembers Civil Relief Act (50
2 U.S.C. App. 501 et seq.);

3 “(VII) charge a convenience,
4 processing, or any other fee for pay-
5 ments made electronically or by tele-
6 phone;

7 “(VIII) fail to comply with any
8 other obligation that the Bureau, by
9 regulation, has determined to be ap-
10 propriate to carry out the consumer
11 protection purposes of this paragraph;
12 or

13 “(IX) fail to perform other
14 standard servicing duties and func-
15 tions.

16 “(ii) BUSINESS HOURS.—Postsec-
17 ondary educational lenders or servicers
18 shall be open for borrower inquiries and
19 outreach during and after normal business
20 hours, including availability after 5:00 p.m.
21 in all continental United States time zones
22 and some weekend hours.

23 “(iii) ADDITIONAL STANDARDS.—The
24 Director may promulgate regulations, in
25 accordance with paragraph (17)(A), estab-

1 lishing additional servicing standards to re-
 2 duce delinquencies, assignment to collec-
 3 tions, defaults, and charge offs, and to en-
 4 sure borrowers understand their rights and
 5 obligations related to their postsecondary
 6 education loans.

7 “(O) PROHIBITION ON LIMITING BOR-
 8 ROWER LEGAL ACTION BY POSTSECONDARY
 9 EDUCATIONAL LENDERS AND SERVICERS.—

10 “(i) WAIVER OF RIGHTS AND REM-
 11 EDIES.—Any rights and remedies available
 12 to borrowers against postsecondary edu-
 13 cational lenders or servicers may not be
 14 waived by any agreement, policy, or form,
 15 including by a mandatory predispute arbi-
 16 tration agreement or class action waiver.

17 “(ii) PREDISPUTE ARBITRATION
 18 AGREEMENTS.—No limitation or restric-
 19 tion on the ability of a borrower to pursue
 20 a claim in court with respect to a postsec-
 21 ondary education loan, including manda-
 22 tory predispute arbitration agreements and
 23 class action waivers, shall be valid or en-
 24 forceable by a postsecondary educational

1 lender or servicer, including as a third-
2 party beneficiary or by estoppel.

3 “(P) PREEMPTION.—Nothing in this para-
4 graph may be construed to preempt any provi-
5 sion of State law regarding postsecondary edu-
6 cation loans where the State law provides
7 stronger consumer protections.

8 “(Q) CIVIL LIABILITY.—A postsecondary
9 educational lender or servicer that fails to com-
10 ply with any requirement imposed under this
11 paragraph shall be deemed a creditor that has
12 failed to comply with a requirement under this
13 chapter for purposes of liability under section
14 130 and such postsecondary educational lender
15 or servicer shall be subject to the liability provi-
16 sions under such section, including the provi-
17 sions under paragraphs (1), (2)(A)(i), (2)(B),
18 and (3) of section 130(a).

19 “(R) ELIGIBILITY FOR DISCHARGE.—The
20 Director, in accordance with paragraph (17)(A),
21 shall promulgate rules requiring postsecondary
22 educational lenders and servicers to—

23 “(i) identify and contact borrowers
24 who may be eligible for student loan dis-
25 charge by the Secretary, including under

1 section 437 of the Higher Education Act
2 of 1965 (20 U.S.C. 1087); and

3 “(ii) provide the borrower, in writing,
4 in simple and understandable terms, infor-
5 mation about obtaining such discharge.

6 “(17) CONSUMER FINANCIAL PROTECTION BU-
7 REAU REQUIREMENTS.—

8 “(A) RULEMAKING.—The Director shall,
9 based on consumer testing (as appropriate) and
10 upon consideration of any final recommenda-
11 tions published by the Secretary under section
12 456(g)(3) of the Higher Education Act of 1965
13 (20 U.S.C. 1087f(g)(3)), promulgate regula-
14 tions in consultation with the Secretary, to
15 carry out the requirements of this subsection.

16 “(B) COMPLIANCE FOR CERTAIN ENTI-
17 TIES.—

18 “(i) IN GENERAL.—The Director may
19 promulgate regulations under subpara-
20 graph (A) to require an entity or class of
21 entities with which the Secretary has en-
22 tered into a contract under section 456 of
23 the Higher Education Act of 1965 (20
24 U.S.C. 1087f) to comply with an alter-
25 native requirement or standard promul-

1 gated by the Director in lieu of compliance
2 with any requirement or standard under
3 this subsection if the Director determines
4 that—

5 “(I) such entity or class of enti-
6 ties are not required by the Secretary
7 pursuant to the contract to perform a
8 servicing function governed by the re-
9 quirement or standard, and where
10 such function is required by the Sec-
11 retary, to be performed by another en-
12 tity or class of entities; or

13 “(II) the Secretary, in consulta-
14 tion with the Chief Operating Officer
15 of Federal Student Aid, has promul-
16 gated regulations to establish an alter-
17 native requirement or standard with
18 respect to such entity or class of enti-
19 ties that better benefits or protects
20 borrowers and the Director incor-
21 porates such requirement or standard
22 that better benefits or protects bor-
23 rowers into regulations promulgated
24 under subparagraph (A).

1 “(ii) REPORTS.—The Director shall
 2 report to the Committee on Banking,
 3 Housing, and Urban Affairs of the Senate,
 4 the Committee on Health, Education,
 5 Labor, and Pensions of the Senate, the
 6 Committee on Financial Services of the
 7 House of Representatives, and the Com-
 8 mittee on Education and Labor of the
 9 House of Representatives on any regula-
 10 tions promulgated under clause (i).

11 “(18) POSTSECONDARY EDUCATIONAL LEND-
 12 ERS OR SERVICERS AND CONTRACTS OR SUB-
 13 CONTRACTS.—

14 “(A) IN GENERAL.—Any person or entity
 15 that enters into a contract or subcontract with
 16 a postsecondary educational lender or servicer
 17 to perform the servicing of a postsecondary
 18 educational loan may fulfill the obligations of
 19 the postsecondary educational lender or servicer
 20 under this subsection.

21 “(B) JOINT AND SEVERAL LIABILITY FOR
 22 SERVICE PROVIDERS.—Any entity or person de-
 23 scribed in subparagraph (A) shall be jointly and
 24 severally liable for the actions of the entity or
 25 person in fulfilling the obligations of the post-

1 secondary educational lender or servicer under
 2 this subsection.”; and

3 (B) by adding at the end the following:

4 “(g) INFORMATION TO BE AVAILABLE AT NO
 5 CHARGE.—The information required to be disclosed under
 6 this section shall be made available at no charge to the
 7 borrower.”; and

8 (2) in section 130(a)—

9 (A) in paragraph (3), by striking
 10 “128(e)(7)” and inserting “128(e)(11)”; and

11 (B) in the flush matter at the end, by
 12 striking “or paragraph (4)(C), (6), (7), or (8)
 13 of section 128(e),” and inserting “or paragraph
 14 (4)(C), (10), (11), or (12) of section 128(e),”.

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made
 17 under subsection (a) shall be effective 180 days after
 18 the date of enactment of this Act.

19 (2) DELAY.—The Director of the Bureau of
 20 Consumer Financial Protection shall delay the effec-
 21 tive date of the amendments made under subsection
 22 (a) for not more than 1 additional year with respect
 23 to entities engaged in servicing pursuant to a con-
 24 tract awarded under section 456 of the Higher Edu-
 25 cation Act of 1965 (20 U.S.C. 1087f) pending the

1 Secretary of Education’s final recommendations re-
 2 quired under section 456(g) of such Act related to
 3 the promulgation of regulations by the Director
 4 under section 128(e)(17) of the Truth in Lending
 5 Act (15 U.S.C. 1638(e)(17)).

6 **SEC. 4. REHABILITATION OF PRIVATE EDUCATION LOANS.**

7 Section 623(a)(1)(E) of the Fair Credit Reporting
 8 Act (15 U.S.C. 1681s-2(a)(1)(E)) is amended to read as
 9 follows:

10 “(E) REHABILITATION OF PRIVATE EDU-
 11 CATION LOANS.—

12 “(i) IN GENERAL.—If a borrower of a
 13 private education loan rehabilitates such
 14 loan in accordance with section 128(e)(23)
 15 of the Truth in Lending Act (15 U.S.C.
 16 1638(e)(23)), the private educational lend-
 17 er or entity engaged in servicing such loan
 18 shall request that any consumer reporting
 19 agency to which the charge-off was re-
 20 ported remove the delinquency that led to
 21 the charge-off and the charge-off from the
 22 borrower’s credit history.

23 “(ii) BANKING AGENCIES.—

24 “(I) IN GENERAL.—If a private
 25 educational lender is supervised by a

1 Federal banking agency, the private
 2 educational lender shall seek written
 3 approval from the Federal banking
 4 agency that the terms and conditions
 5 of the loan rehabilitation program of
 6 the lender meet the requirements of
 7 section 128(e)(23) of the Truth in
 8 Lending Act (15 U.S.C. 1638(e)(23)).

9 “(II) FEEDBACK.—An appro-
 10 priate Federal banking agency shall
 11 provide feedback to a private edu-
 12 cational lender within 120 days of a
 13 request for approval under subclause
 14 (I).

15 “(iii) DEFINITIONS.—For purposes of
 16 this subparagraph—

17 “(I) the term ‘appropriate Fed-
 18 eral banking agency’ has the meaning
 19 given the term in section 3 of the
 20 Federal Deposit Insurance Act (12
 21 U.S.C. 1813); and

22 “(II) the term ‘private education
 23 loan’ has the meaning given the term
 24 in section 140(a) of the Truth in
 25 Lending Act (15 U.S.C. 1650(a)).’.

1 **SEC. 5. IMPROVED CONSUMER PROTECTIONS FOR PRIVATE**
2 **EDUCATION LOANS.**

3 Section 128(e) of the Truth in Lending Act (15
4 U.S.C. 1638(e)), as amended by section 3, is further
5 amended—

6 (1) by adding at the end the following:

7 “(19) DISCHARGE OF PRIVATE EDUCATION
8 LOANS IN THE EVENT OF DEATH OR DISABILITY OF
9 THE BORROWER.—Each private education loan shall
10 include terms that provide that the liability to repay
11 the loan shall be canceled—

12 “(A) upon the death of the borrower;

13 “(B) if the borrower becomes permanently
14 and totally disabled, as determined under sec-
15 tion 437(a)(1) of the Higher Education Act of
16 1965 (20 U.S.C. 1087(a)(1)) and the regula-
17 tions promulgated by the Secretary under that
18 section; or

19 “(C) if the Secretary of Veterans Affairs
20 or the Secretary of Defense determines that the
21 borrower is unemployable due to a service-con-
22 nected condition or disability, in accordance
23 with the requirements of section 437(a)(2) of
24 such Act and the regulations promulgated by
25 the Secretary under that section.

1 “(20) TERMS FOR CO-BORROWERS.—Each pri-
2 vate education loan shall include terms that clearly
3 define the requirements to release a co-borrower
4 from the obligation.

5 “(21) PROHIBITION OF ACCELERATION OF PAY-
6 MENTS ON PRIVATE EDUCATION LOANS.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), a private education loan exe-
9 cuted after the date of enactment of this para-
10 graph may not include a provision that permits
11 the private educational lender, loan holder, or
12 entity engaged in servicing such loan to accel-
13 erate, in whole or in part, payments on the pri-
14 vate education loan.

15 “(B) ACCELERATION CAUSED BY A PAY-
16 MENT DEFAULT.—A private education loan may
17 include a provision that permits acceleration of
18 the loan in cases of payment default.

19 “(22) PROHIBITION ON DENIAL OF CREDIT DUE
20 TO ELIGIBILITY FOR PROTECTION UNDER
21 SERVICEMEMBERS CIVIL RELIEF ACT.—A private
22 educational lender may not deny or refuse credit to
23 an individual who is entitled to any right or protec-
24 tion provided under the Servicemembers Civil Relief
25 Act (50 U.S.C. App. 501 et seq.) or subject, solely

1 by reason of such entitlement, such individual to any
2 other action described in paragraphs (1) through (6)
3 of section 108 of such Act.

4 “(23) REHABILITATION OF PRIVATE EDU-
5 CATION LOANS.—

6 “(A) IN GENERAL.—If a borrower of a pri-
7 vate education loan successfully and voluntarily
8 makes 9 payments within 20 days of the due
9 date during 10 consecutive months of amounts
10 owed on the private education loan, or other-
11 wise brings the private education loan current
12 after the loan is charged off, the loan shall be
13 considered rehabilitated, and the lender or enti-
14 ty engaged in servicing such loan shall request
15 that any consumer reporting agency to which
16 the charge off was reported remove the delin-
17 quency that led to the charge off and the
18 charge off from the borrower’s credit history.

19 “(B) TERMS.—No private educational
20 lender shall offer a borrower rehabilitation of
21 loans where the payment required to rehabili-
22 tate a defaulted private education loan is less
23 than the monthly payment amount required
24 upon completion of rehabilitation.”;

25 (2) in paragraph (1)—

(A) by striking subparagraph (D) and inserting the following:

“(D) requirements for a co-borrower, including—

“(i) any changes in the applicable interest rates without a co-borrower; and

“(ii) any conditions the borrower is required meet in order to release a co-borrower from the private education loan obligation;”;

(B) by redesignating subparagraphs (O), (P), (Q), and (R) as subparagraphs (P), (Q), (R), and (S), respectively; and

(C) by inserting after subparagraph (N) the following:

“(O) in the case of a refinancing of education loans that include a Federal student loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.)—

“(i) a list containing each loan to be refinanced, which shall identify whether the loan is a private education loan or a Federal student loan made, insured, or guaranteed under title IV of the Higher

1 Education Act of 1965 (20 U.S.C. 1070 et
2 seq.); and

3 “(ii) benefits that the borrower may
4 be forfeiting, including income-driven re-
5 payment options, opportunities for loan
6 forgiveness, forbearance or deferment op-
7 tions, interest subsidies, and tax benefits;”;
8 and

9 (3) in paragraph (2)—

10 (A) by redesignating subparagraphs (O)
11 and (P) as subparagraphs (P) and (Q), respec-
12 tively; and

13 (B) by inserting after subparagraph (N)
14 the following:

15 “(O) in the case of a refinancing of edu-
16 cation loans that include a Federal student loan
17 made, insured, or guaranteed under title IV of
18 the Higher Education Act of 1965 (20 U.S.C.
19 1070 et seq.)—

20 “(i) a list containing each loan to be
21 refinanced, which shall identify whether
22 the loan is a private education loan or a
23 Federal student loan made, insured, or
24 guaranteed under title IV of the Higher

1 Education Act of 1965 (20 U.S.C. 1070 et
2 seq.); and

3 “(ii) benefits that the borrower may
4 be forfeiting, including income-driven re-
5 payment options, opportunities for loan
6 forgiveness, forbearance or deferment op-
7 tions, interest subsidies, and tax benefits;”.

8 **SEC. 6. KNOW BEFORE YOU OWE.**

9 (a) AMENDMENTS TO THE TRUTH IN LENDING
10 ACT.—

11 (1) IN GENERAL.—Section 128(e) of the Truth
12 in Lending Act (15 U.S.C. 1638(e)), as amended by
13 sections 3 and 5, is further amended—

14 (A) by striking paragraph (3) and insert-
15 ing the following:

16 “(3) INSTITUTIONAL CERTIFICATION RE-
17 QUIRED.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), before a creditor may issue
20 any funds with respect to an extension of credit
21 described in this subsection, the creditor shall
22 obtain from the relevant institution of higher
23 education where such loan is to be used for a
24 student, such institution’s certification of—

1 “(i) the enrollment status of the stu-
2 dent;

3 “(ii) the student’s cost of attendance
4 at the institution as determined by the in-
5 stitution under part F of title IV of the
6 Higher Education Act of 1965 (20 U.S.C.
7 1087kk et seq.); and

8 “(iii) the difference between—

9 “(I) such cost of attendance; and

10 “(II) the student’s estimated fi-
11 nancial assistance, including such as-
12 sistance received under title IV of the
13 Higher Education Act of 1965 (20
14 U.S.C. 1070 et seq.) (except for Fed-
15 eral Direct PLUS Loans made on be-
16 half of the student) and other finan-
17 cial assistance known to the institu-
18 tion, as applicable (except for loans
19 made under the Public Health Service
20 Act (42 U.S.C. 201 et seq.)).

21 “(B) EXCEPTION.—Notwithstanding sub-
22 paragraph (A), a creditor may issue funds, not
23 to exceed the amount described in subpara-
24 graph (A)(iii), with respect to an extension of
25 credit described in this subsection without ob-

1 taining from the relevant institution of higher
 2 education such institution's certification if such
 3 institution fails to provide within 15 business
 4 days of the creditor's request for such certifi-
 5 cation—

6 “(i) notification of the institution's re-
 7 fusal to certify the request; or

8 “(ii) notification that the institution
 9 has received the request for certification
 10 and will need additional time to comply
 11 with the certification request.

12 “(C) LOANS DISBURSED WITHOUT CER-
 13 TIFICATION.—If a creditor issues funds without
 14 obtaining a certification, as described in sub-
 15 paragraph (B), such creditor shall report the
 16 issuance of such funds in a manner determined
 17 by the Director.”; and

18 (B) by adding at the end the following:

19 “(24) PROVISION OF INFORMATION.—

20 “(A) PROVISION OF INFORMATION TO STU-
 21 DENTS.—

22 “(i) LOAN STATEMENT.—A creditor
 23 that issues any funds with respect to an
 24 extension of credit described in this sub-
 25 section shall send loan statements, where

such loan is to be used for a student, to borrowers of such funds not less than once every 3 months during the time that such student is enrolled at an institution of higher education.

“(ii) CONTENTS OF LOAN STATEMENT.—Each statement described in clause (i) shall—

“(I) report the borrower’s total remaining debt to the creditor, including accrued but unpaid interest and capitalized interest;

“(II) report any debt increases since the last statement; and

“(III) list the current interest rate for each loan.

“(B) NOTIFICATION OF LOANS DISBURSED WITHOUT CERTIFICATION.—On or before the date a creditor issues any funds with respect to an extension of credit described in this subsection, the creditor shall notify the relevant institution of higher education, in writing, of the amount of the extension of credit and the student on whose behalf credit is extended. The form of such written notification shall be sub-

ject to the regulations of the Bureau of Consumer Financial Protection.

“(C) ANNUAL REPORT.—A creditor that issues funds with respect to an extension of credit described in this subsection shall prepare and submit an annual report to the Bureau of Consumer Financial Protection containing the required information about private student loans to be determined by the Bureau of Consumer Financial Protection, in consultation with the Secretary.”.

(2) DEFINITION OF PRIVATE EDUCATION LOAN.—Section 140(a)(8)(A) of the Truth in Lending Act (15 U.S.C. 1650(a)(8)(A)) is amended—

(A) by redesignating clause (ii) as clause (iii);

(B) in clause (i), by striking “and” after the semicolon; and

(C) by adding after clause (i) the following:

“(ii) is not made, insured, or guaranteed under title VII or title VIII of the Public Health Service Act (42 U.S.C. 292 et seq. and 296 et seq.); and”.

(3) REGULATIONS.—Not later than 365 days after the date of enactment of this Act, the Director

1 of the Bureau of Consumer Financial Protection
2 shall issue regulations in final form to implement
3 paragraphs (3) and (23) of section 128(e) of the
4 Truth in Lending Act (15 U.S.C. 1638(e)), as
5 amended by paragraph (1). Such regulations shall
6 become effective not later than 6 months after their
7 date of issuance.

8 (b) AMENDMENTS TO THE HIGHER EDUCATION ACT
9 OF 1965.—

10 (1) PROGRAM PARTICIPATION AGREEMENTS.—

11 Section 487(a) of the Higher Education Act of 1965
12 (20 U.S.C. 1094(a)) is amended by striking para-
13 graph (28) and inserting the following:

14 “(28)(A) Upon the request of a private edu-
15 cational lender, acting in connection with an applica-
16 tion initiated by a borrower for a private education
17 loan in accordance with section 128(e)(3) of the
18 Truth in Lending Act (15 U.S.C. 1638(e)(3)), the
19 institution shall within 15 days of receipt of a cer-
20 tification request—

21 “(i) provide such certification to such pri-
22 vate educational lender—

23 “(I) that the student who initiated the
24 application for the private education loan,
25 or on whose behalf the application was ini-

1 tiated, is enrolled or is scheduled to enroll
2 at the institution;

3 “(II) of such student’s cost of attend-
4 ance at the institution as determined under
5 part F of this title; and

6 “(III) of the difference between—

7 “(aa) the cost of attendance at
8 the institution; and

9 “(bb) the student’s estimated fi-
10 nancial assistance received under this
11 title (except for Federal Direct PLUS
12 Loans made on behalf of the student)
13 and other assistance known to the in-
14 stitution, as applicable (except for
15 loans made under the Public Health
16 Service Act (42 U.S.C. 201 et seq.));

17 “(ii) notify the creditor that the institution
18 has received the request for certification and
19 will need additional time to comply with the
20 certification request; or

21 “(iii) provide notice to the private edu-
22 cational lender of the institution’s refusal to
23 certify the private education loan under sub-
24 paragraph (D).

1 “(B) With respect to a certification request de-
2 scribed in subparagraph (A), and prior to providing
3 such certification under subparagraph (A)(i) or pro-
4 viding notice of the refusal to provide certification
5 under subparagraph (A)(iii), the institution shall—

6 “(i) determine whether the student who
7 initiated the application for the private edu-
8 cation loan, or on whose behalf the application
9 was initiated, has applied for and exhausted the
10 Federal financial assistance available to such
11 student under this title and inform the student
12 accordingly; and

13 “(ii) provide the borrower whose loan ap-
14 plication has prompted the certification request
15 by a private educational lender, as described in
16 subparagraph (A)(i), with the following infor-
17 mation and disclosures:

18 “(I) The availability of, and the bor-
19 rower’s potential eligibility for, Federal fi-
20 nancial assistance under this title, includ-
21 ing disclosing the terms, conditions, inter-
22 est rates, and repayment options and pro-
23 grams of Federal student loans.

1 “(II) The borrower’s ability to select a
2 private educational lender of the bor-
3 rower’s choice.

4 “(III) The impact of a proposed pri-
5 vate education loan on the borrower’s po-
6 tential eligibility for other financial assist-
7 ance, including Federal financial assistance
8 under this title.

9 “(IV) The borrower’s right to accept
10 or reject a private education loan within
11 the 30-day period following a private edu-
12 cational lender’s approval of a borrower’s
13 application and about a borrower’s 3-day
14 right to cancel period.

15 “(C) For purposes of this paragraph, the terms
16 ‘private educational lender’ and ‘private education
17 loan’ have the meanings given such terms in section
18 140 of the Truth in Lending Act (15 U.S.C. 1650).

19 “(D)(i) An institution shall not provide a cer-
20 tification with respect to a private education loan
21 under this paragraph unless the private education
22 loan includes terms that provide—

23 “(I) the borrower alternative repayment
24 options, including loan consolidation or refi-
25 nancing; and

1 “(II) for the discharge of the borrower and
 2 co-borrower’s, if applicable, liability to repay
 3 the loan pursuant to paragraphs (19) and (20)
 4 of section 128(e) of the Truth in Lending Act
 5 (15 U.S.C. 1638(e)).

6 “(ii) In this paragraph, the term ‘disability’
 7 means a permanent and total disability, as deter-
 8 mined in accordance with the regulations of the Sec-
 9 retary of Education, or a determination by the Sec-
 10 retary of Veterans Affairs that the borrower is un-
 11 employable due to a service connected-disability.”.

12 (2) EFFECTIVE DATE.—The amendment made
 13 by paragraph (1) shall take effect on the effective
 14 date of the regulations described in subsection
 15 (a)(3).

16 (3) PREFERRED LENDER ARRANGEMENT.—Sec-
 17 tion 151(8)(A)(ii) of the Higher Education Act of
 18 1965 (20 U.S.C. 1019(8)(A)(ii)) is amended by in-
 19 serting “certifying,” after “promoting,”.

20 (c) REPORT.—

21 (1) IN GENERAL.—Not later than 24 months
 22 after the issuance of regulations under subsection
 23 (a)(3), the Director of the Bureau of Consumer Fi-
 24 nancial Protection and the Secretary of Education

1 shall jointly submit to Congress a report on the com-
 2 pliance of—

3 (A) private educational lenders with sec-
 4 tion 128(e)(3) of the Truth in Lending Act (15
 5 U.S.C. 1638(e)), as amended by subsection (a);
 6 and

7 (B) institutions of higher education with
 8 section 487(a)(28) of the Higher Education Act
 9 of 1965 (20 U.S.C. 1094(a)), as amended by
 10 subsection (b).

11 (2) CONTENTS.—The report under paragraph
 12 (1) shall include information about the degree to
 13 which specific institutions utilize certifications in ef-
 14 fectively—

15 (A) encouraging the exhaustion of Federal
 16 student loan eligibility by borrowers prior to
 17 taking on private education loan debt; and

18 (B) lowering student private education
 19 loan debt by borrowers.

20 **SEC. 7. CENTRALIZED POINT OF ACCESS.**

21 Part G of title IV of the Higher Education Act of
 22 1965 (20 U.S.C. 1088 et seq.) is amended by adding at
 23 the end the following:

1 **“SEC. 493E. CENTRALIZED POINT OF ACCESS.**

2 “Not later than 2 years after the date of enactment
3 of the Student Loan Borrower Bill of Rights, the Sec-
4 retary shall establish a centralized point of access for all
5 borrowers of loans that are made, insured, or guaranteed
6 under this title that are in repayment, including a central
7 location for account information and payment processing
8 for such loan servicing, regardless of the specific entity
9 engaged in servicing.”.

10 **SEC. 8. EDUCATION LOAN OMBUDSMAN.**

11 Section 1035 of the Consumer Financial Protection
12 Act of 2010 (12 U.S.C. 5535) is amended—

13 (1) in the section heading, by striking “**PRI-**
14 **VATE**”;

15 (2) in subsection (a)—

16 (A) by striking “a Private” and inserting
17 “an”; and

18 (B) by striking “private”;

19 (3) in subsection (b), by striking “private edu-
20 cation student loan” and inserting “postsecondary
21 education loan”;

22 (4) in subsection (c)—

23 (A) in the matter preceding paragraph (1),
24 by striking “subsection” and inserting “sec-
25 tion”;

1 (B) in paragraph (1), by striking “pri-
2 vate”;

3 (C) by striking paragraph (2) and insert-
4 ing the following:

5 “(2) coordinate with the unit of the Bureau es-
6 tablished under section 1013(b)(3), in order to mon-
7 itor complaints by borrowers and responses to those
8 complaints by the Bureau or other appropriate Fed-
9 eral or State agency;”; and

10 (D) in paragraph (3), by striking “pri-
11 vate”;

12 (5) in subsection (d)—

13 (A) in paragraph (2)—

14 (i) by striking “on the same day an-
15 nually”; and

16 (ii) by inserting “and be made avail-
17 able to the public” after “Representa-
18 tives”; and

19 (B) by adding at the end the following:

20 “(3) CONTENTS.—The report required under
21 paragraph (1) shall include information on the num-
22 ber, nature, and resolution of complaints received,
23 disaggregated by postsecondary educational lender
24 or servicer, region, State, and institution of higher
25 education.”; and

1 (6) by striking subsection (e) and inserting the
2 following:

3 “(e) DEFINITIONS.—In this section:

4 “(1) BORROWER.—The term ‘borrower’ means
5 a borrower of a postsecondary education loan.

6 “(2) INSTITUTION OF HIGHER EDUCATION.—
7 The term ‘institution of higher education’ has the
8 meaning given the term in section 140 of the Truth
9 in Lending Act (15 U.S.C. 1650).

10 “(3) POSTSECONDARY EDUCATION LOAN.—The
11 term ‘postsecondary education loan’ means—

12 “(A) a private education loan, as defined
13 in section 140 of the Truth in Lending Act (15
14 U.S.C. 1650); or

15 “(B) a loan made, insured, or guaranteed
16 under part B, D, or E of title IV of the Higher
17 Education Act of 1965 (20 U.S.C. 1071 et seq.,
18 1087a et seq., and 1087aa et seq.).”.

19 **SEC. 9. REPORT ON PRIVATE EDUCATION LOANS AND PRI-**
20 **VATE EDUCATIONAL LENDERS.**

21 (a) IN GENERAL.—Not later than 2 years after the
22 date of enactment of this Act, the Director of the Bureau
23 of Consumer Financial Protection and the Secretary of
24 Education, in consultation with the Commissioners of the
25 Federal Trade Commission and the Attorney General of

1 the United States, shall submit a report to the Committee
2 on Banking, Housing, and Urban Affairs of the Senate,
3 the Committee on Health, Education, Labor, and Pen-
4 sions of the Senate, the Committee on Financial Services
5 of the House of Representatives, and the Committee on
6 Education and Labor of the House of Representatives on
7 private education loans (as that term is defined in section
8 140 of the Truth in Lending Act (15 U.S.C. 1650)) and
9 private educational lenders (as that term is defined in such
10 section).

11 (b) CONTENTS.—The report required by this section
12 shall examine, at a minimum—

13 (1) the growth and changes of the private edu-
14 cation loan market in the United States;

15 (2) factors influencing such growth and
16 changes;

17 (3) the extent to which students and parents of
18 students rely on private education loans to finance
19 postsecondary education and the private education
20 loan indebtedness of borrowers;

21 (4) the characteristics of private education loan
22 borrowers, including—

23 (A) the types of institutions of higher edu-
24 cation that they attend;

1 (B) socioeconomic characteristics (includ-
2 ing income and education levels, racial charac-
3 teristics, geographical background, age, and
4 gender);

5 (C) what other forms of financing bor-
6 rowers use to pay for education;

7 (D) whether they exhaust their Federal
8 loan options before taking out a private edu-
9 cation loan;

10 (E) whether such borrowers are dependent
11 or independent students (as determined under
12 part F of title IV of the Higher Education Act
13 of 1965 (20 U.S.C. 1087kk et seq.)) or parents
14 of such students;

15 (F) whether such borrowers are students
16 enrolled in a program leading to a certificate, li-
17 cense, or credential other than a degree, an as-
18 sociates degree, a baccalaureate degree, or a
19 graduate or professional degree; and

20 (G) if practicable, employment and repay-
21 ment behaviors;

22 (5) the characteristics of private educational
23 lenders, including whether such creditors are for-
24 profit, nonprofit, or institutions of higher education;

1 (6) the underwriting criteria used by private
2 educational lenders, including the use of cohort de-
3 fault rate (as such term is defined in section 435(m)
4 of the Higher Education Act of 1965 (20 U.S.C.
5 1085(m)));

6 (7) the terms, conditions, and pricing of private
7 education loans;

8 (8) the consumer protections available to pri-
9 vate education loan borrowers, including the effec-
10 tiveness of existing disclosures and requirements and
11 borrowers' awareness and understanding about
12 terms and conditions of various financial products;

13 (9) whether Federal regulators and the public
14 have access to information sufficient to provide them
15 with assurances that private education loans are
16 provided in accord with the Nation's fair lending
17 laws and that allows public officials to determine
18 lender compliance with fair lending laws; and

19 (10) any statutory or legislative recommenda-
20 tions necessary to improve consumer protections for
21 private education loan borrowers and to better en-
22 able Federal regulators and the public to ascertain
23 private educational lender compliance with fair lend-
24 ing laws.

1 **SEC. 10. REPORT ON POSTSECONDARY EDUCATION LOAN**
2 **SERVICING.**

3 Not later than 1 year after the date of enactment
4 of this Act, the Director of the Bureau of Consumer Fi-
5 nancial Protection and the Secretary of Education shall
6 submit a joint report to the Committee on Banking, Hous-
7 ing, and Urban Affairs of the Senate, the Committee on
8 Health, Education, Labor, and Pensions of the Senate, the
9 Committee on Financial Services of the House of Rep-
10 resentatives, and the Committee on Education and Labor
11 of the House of Representatives on servicing of postsec-
12 ondary education loans, including—

13 (1) any legislative recommendations to improve
14 servicing standards; and

15 (2) information on proactive early intervention
16 methods by postsecondary educational lenders or
17 servicers to help distressed postsecondary education
18 loan borrowers enroll in any eligible repayment
19 plans.

○