

113TH CONGRESS  
1ST SESSION

# S. 1803

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

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2013

Mr. DURBIN (for himself, Ms. WARREN, Mrs. BOXER, and Mr. REED) 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. TRUTH IN LENDING ACT AMENDMENTS.**

7 The Truth in Lending Act (15 U.S.C. 1601 et seq.)  
8 is amended—

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

10 (A) in subsection (e)—

1 (i) in paragraph (1)(O), by striking  
2 “paragraph (6)” and inserting “paragraph  
3 (9)”;

4 (ii) in paragraph (2)(L), by striking  
5 “paragraph (6)” and inserting “paragraph  
6 (9)”;

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

10 (iv) by redesignating paragraphs (5)  
11 through (11) as paragraphs (8) through  
12 (14), respectively;

13 (v) by inserting after paragraph (4)  
14 the following:

15 “(5) DISCLOSURES BEFORE FIRST FULLY AM-  
16 ORTIZED PAYMENT.—Not fewer than 30 days and  
17 not more than 150 days before the first fully amor-  
18 tized payment on a private education loan is due  
19 from the borrower, the private educational lender  
20 shall disclose to the borrower, clearly and conspicu-  
21 ously—

22 “(A) the information described in—

23 “(i) paragraph (2)(A) (adjusted, as  
24 necessary, for the rate of interest in effect

1 on the date the first fully amortized pay-  
2 ment on a private education loan is due);

3 “(ii) subparagraphs (B) through (G)  
4 of paragraph (2);

5 “(iii) paragraph (2)(H) (adjusted, as  
6 necessary, for the rate of interest in effect  
7 on the date the first fully amortized pay-  
8 ment on a private education loan is due);

9 “(iv) paragraph (2)(K); and

10 “(v) subparagraphs (O) and (P) of  
11 paragraph (2);

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

14 “(C) the name of the lender and servicer,  
15 and the address to which communications and  
16 payments should be sent including a telephone  
17 number and website where the borrower may  
18 obtain additional information;

19 “(D) a description of alternative repay-  
20 ment plans, including loan consolidation or refi-  
21 nancing, and servicemember or veteran benefits  
22 under the Servicemembers Civil Relief Act (50  
23 U.S.C. App. 501 et seq.) or other Federal or  
24 State law related to private education loans;  
25 and

1           “(E) a statement that a Servicemember  
2           and Veterans Liaison designated under para-  
3           graph (15)(F) is available to answer inquiries  
4           about servicemember and veteran benefits re-  
5           lated to private education loans, including the  
6           toll-free telephone number to contact the Liai-  
7           son pursuant to paragraph (15)(F).

8           “(6) DISCLOSURES WHEN BORROWER IS 30  
9           DAYS DELINQUENT.—Not fewer than 5 days after a  
10          borrower becomes 30 days delinquent on a private  
11          education loan, the private educational lender shall  
12          disclose to the borrower, clearly and conspicuously—

13           “(A) the date on which the loan will be  
14           charged-off (as defined in paragraph (15)(A))  
15           or assigned to collections, including the con-  
16           sequences of such charge-off or assignment to  
17           collections, if no payment is made;

18           “(B) the minimum payment that the bor-  
19           rower must make to avoid the loan being  
20           charged off (as defined in paragraph (15)(A))  
21           or assigned to collection, and the minimum pay-  
22           ment that the borrower must make to bring the  
23           loan current;

24           “(C) a statement informing the borrower  
25           that a payment of less than the minimum pay-

1           ment described in subparagraph (B) could re-  
2           sult in the loan being charged off (as defined in  
3           paragraph (15)(A)) or assigned to collection;  
4           and

5           “(D) a statement that a Servicemember  
6           and Veterans Liaison designated under para-  
7           graph (15)(F) is available to answer inquiries  
8           about servicemember and veteran benefits re-  
9           lated to private education loans, including the  
10          toll-free telephone number to contact the Liai-  
11          son pursuant to paragraph (15)(F).

12          “(7) DISCLOSURES WHEN BORROWER IS HAV-  
13          ING DIFFICULTY MAKING PAYMENT OR IS 60 DAYS  
14          DELINQUENT.—

15                 “(A) IN GENERAL.—Not fewer than 5 days  
16                 after a borrower notifies a private educational  
17                 lender that the borrower is having difficulty  
18                 making payment or a borrower becomes 60  
19                 days delinquent on a private education loan, the  
20                 private educational lender shall—

21                         “(i) complete a full review of the bor-  
22                         rower’s private education loan and make a  
23                         reasonable effort to obtain the information  
24                         necessary to determine—

1                   “(I) if the borrower is eligible for  
2                   an alternative repayment plan, includ-  
3                   ing loan consolidation or refinancing;  
4                   and

5                   “(II) if the borrower is eligible  
6                   for servicemember or veteran benefits  
7                   under the Servicemembers Civil Relief  
8                   Act (50 U.S.C. App. 501 et seq.) or  
9                   other Federal or State law related to  
10                  private education loans;

11                  “(ii) provide the borrower, in writing,  
12                  in simple and understandable terms, infor-  
13                  mation about alternative repayment plans  
14                  and benefits for which the borrower is eli-  
15                  gible, including all terms, conditions, and  
16                  fees or costs associated with such repay-  
17                  ment plan, pursuant to paragraph (8)(D);

18                  “(iii) allow the borrower not less than  
19                  30 days to apply for an alternative repay-  
20                  ment plan or benefits, if eligible; and

21                  “(iv) notify the borrower that a Serv-  
22                  icemember and Veterans Liaison des-  
23                  ignated under paragraph (15)(F) is avail-  
24                  able to answer inquiries about servicemem-  
25                  ber and veteran benefits related to private

1 education loans, including the toll-free tele-  
2 phone number to contact the Liaison pur-  
3 suant to paragraph (15)(F).

4 “(B) FORBEARANCE OR DEFERMENT.—If  
5 a borrower notifies the private educational lend-  
6 er that a long-term alternative repayment plan  
7 is not needed, the private educational lender  
8 may comply with this paragraph by providing  
9 the borrower, in writing, in simple and under-  
10 standable terms, information about forbearance  
11 or deferment options, including all terms, condi-  
12 tions, and fees or costs associated with such op-  
13 tions pursuant to paragraph (8)(D).

14 “(C) NOTIFICATION PROCESS.—

15 “(i) IN GENERAL.—Each private edu-  
16 cational lender shall establish a process, in  
17 accordance subparagraph (A), for a bor-  
18 rower to notify the lender that—

19 “(I) the borrower is having dif-  
20 ficulty making payments on a private  
21 education loan; and

22 “(II) a long-term alternative re-  
23 payment plan is not needed.

24 “(ii) CONSUMER FINANCIAL PROTEC-  
25 TION BUREAU REQUIREMENTS.—The Di-

1           rector of the Consumer Financial Protec-  
2           tion Bureau, in consultation with the Sec-  
3           retary of Education, shall promulgate rules  
4           establishing minimum standards for pri-  
5           vate educational lenders in carrying out  
6           the requirements of this paragraph and a  
7           model form for borrowers to notify private  
8           educational lenders of the information  
9           under this paragraph.”;

10                   (vi) in paragraph (8), as redesignated  
11                   by clause (iv), by adding at the end the fol-  
12                   lowing:

13                   “(D) MODEL DISCLOSURE FORM FOR AL-  
14                   TERNATIVE REPAYMENT PLANS, FORBEARANCE,  
15                   AND DEFERMENT OPTIONS.—Not later than 2  
16                   years after the date of enactment of the Stu-  
17                   dent Loan Borrower Bill of Rights, the Director  
18                   of the Consumer Financial Protection Bureau,  
19                   in consultation with the Secretary of Education,  
20                   shall develop and issue model forms to allow  
21                   borrowers to compare alternative repayment  
22                   plans, forbearance, and deferment options with  
23                   the borrower’s existing repayment plan with re-  
24                   spect to a private education loan. Such forms  
25                   shall include the following:



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

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

5           “(iii) The monthly payment amount.

6           “(iv) The expected pay-off date.

7           “(v) Related fees and costs.

8           “(vi) Eligibility requirements, and  
9 how the borrower can apply for the alter-  
10 native repayment plan, forbearance, or  
11 deferment option.

12           “(vii) Any consequences, including the  
13 loss of eligibility for alternative repayment  
14 plans, forbearance, or deferment options.”;

15           (vii) in paragraph (11), as redesign-  
16 ated by clause (iv), by striking “para-  
17 graph (7)” and inserting “paragraph  
18 (10)”;

19           (viii) in paragraph (14), as redesign-  
20 ated by clause (iv), by striking “para-  
21 graph (5)” and inserting “paragraph (8)”;  
22 and

23           (ix) by adding at the end the fol-  
24 lowing:

1           “(15) STUDENT LOAN BORROWER BILL OF  
2 RIGHTS.—

3           “(A) DEFINITIONS.—In this paragraph:

4           “(i) BORROWER.—The term ‘bor-  
5 rower’ means the person to whom a private  
6 education loan is extended.

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

10           “(iii) PRIVATE EDUCATION LOAN.—  
11 The term ‘private education loan’ has the  
12 meaning given the term in section 140(a).

13           “(iv) SERVICER.—The term ‘servicer’  
14 means the person responsible for the serv-  
15 icing of a private education loan, including  
16 any agent of such person or the person  
17 who makes, owns, or holds a loan if such  
18 person also services the loan.

19           “(v) SERVICING.—The term ‘serv-  
20 icing’ means—

21           “(I) receiving any scheduled peri-  
22 odic payments from a borrower pursu-  
23 ant to the terms of a private edu-  
24 cation loan;

1           “(II) making the payments of  
2           principal and interest and such other  
3           payments with respect to the amounts  
4           received from the borrower, as may be  
5           required pursuant to the terms of the  
6           loan; and

7           “(III) performing other adminis-  
8           trative services with respect to the  
9           loan.

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

11           If the sale, other transfer, or assignment of a  
12           private education loan results in a change in  
13           the identity of the party to whom the borrower  
14           must send subsequent payments or direct any  
15           communications concerning the loan—

16           “(i) the transferor shall—

17           “(I) notify the borrower, in writ-  
18           ing, in simple and understandable  
19           terms, not fewer than 45 days before  
20           transferring a legally enforceable right  
21           to receive payment from the borrower  
22           on such loan, of—

23           “(aa) the sale or other  
24           transfer;

1           “(bb) the identity of the  
2 transferee;

3           “(cc) the name and address  
4 of the party to whom subsequent  
5 payments or communications  
6 must be sent;

7           “(dd) the telephone numbers  
8 and websites of both the trans-  
9 feror and the transferee;

10          “(ee) the effective date of  
11 the sale, transfer, or assignment;

12          “(ff) the date on which the  
13 transferor servicer will stop ac-  
14 cepting payment; and

15          “(gg) the date on which the  
16 transferee servicer will begin ac-  
17 cepting payment; and

18          “(II) forward any payment from  
19 a borrower with respect to such pri-  
20 vate education loan to the transferee  
21 servicer, immediately upon receiving  
22 such payment, during the 60-day pe-  
23 riod beginning on the date on which  
24 the transferor servicer stops accepting

1 payment of such private education  
2 loan; and

3 “(ii) the transferee shall—

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

10 “(aa) the sale or other  
11 transfer;

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

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

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

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

23 “(ff) the date on which the  
24 transferor will stop accepting  
25 payment; and

1                   “(gg) the date on which the  
2                   transferee will begin accepting  
3                   payment;

4                   “(II) accept as on-time and may  
5                   not impose any late fee or finance  
6                   charge for any payment from a bor-  
7                   rower with respect to such private  
8                   education loan that is forwarded from  
9                   the transferor servicer during the 60-  
10                  day period beginning on the date on  
11                  which the transferor servicer stops ac-  
12                  cepting payment, if the transferor  
13                  servicer receives such payment on or  
14                  before the applicable due date, includ-  
15                  ing any grace period;

16                  “(III) provide borrowers a sim-  
17                  ple, online process for transferring ex-  
18                  isting electronic fund transfer author-  
19                  ity; and

20                  “(IV) honor any promotion or  
21                  benefit offered to the borrower or ad-  
22                  vertised by the previous owner or  
23                  transferor servicer of such private  
24                  education loan.

1           “(C) MATERIAL CHANGE IN MAILING AD-  
2           DRESS OR PROCEDURE FOR HANDLING PAY-  
3           MENTS.—If a servicer makes a change in the  
4           mailing address, office, or procedures for han-  
5           dling payments with respect to any private edu-  
6           cation loan, and such change causes a delay in  
7           the crediting of the account of the borrower  
8           made during the 60-day period following the  
9           date on which such change took effect, the  
10          servicer may not impose any late fee or finance  
11          charge for a late payment on such private edu-  
12          cation loan.

13           “(D) APPLICATION OF PAYMENTS.—

14           “(i) IN GENERAL.—Unless otherwise  
15           directed by the borrower, upon receipt of a  
16           payment, the servicer shall apply amounts  
17           first to the interest and fees owed on the  
18           payment due date, and then to the prin-  
19           cipal balance of the private education loan  
20           bearing the highest annual percentage  
21           rate, and then to each successive interest  
22           and fees and then principal balance bear-  
23           ing the next highest annual percentage  
24           rate, until the payment is exhausted. A  
25           borrower may instruct or expressly author-

1           ize the servicer to apply payments in a dif-  
2           ferent manner.

3           “(ii) APPLICATION OF EXCESS  
4           AMOUNTS.—Unless otherwise directed by  
5           the borrower, upon receipt of a payment,  
6           the servicer shall apply amounts in excess  
7           of the minimum payment amount first to  
8           the interest and fees owed on the payment  
9           due date, and then to the principal balance  
10          of the private education loan balance bear-  
11          ing the highest annual percentage rate,  
12          and then to each successive interest and  
13          fees and principal balance bearing the next  
14          highest annual percentage rate, until the  
15          payment is exhausted. A borrower may in-  
16          struct or expressly authorize the servicer to  
17          apply such excess payments in a different  
18          manner.

19          “(iii) APPLY PAYMENT ON DATE RE-  
20          CEIVED.—Unless otherwise directed by the  
21          borrower, a servicer shall apply payments  
22          to a borrower’s account on the date the  
23          payment is received.

24          “(iv) PROMULGATION OF RULES.—  
25          The Director of the Consumer Financial



1           Protection Bureau, in consultation with  
2           the Secretary of Education, may promul-  
3           gate rules for the application of payments  
4           that—

5                   “(I) minimizes the amount of  
6                   fees and interest incurred by the bor-  
7                   rower and the total loan amount paid  
8                   by the borrower;

9                   “(II) minimizes delinquencies, as-  
10                  signments to collection, and charge-  
11                  offs;

12                  “(III) requires servicers to apply  
13                  payments on the date received; and

14                  “(IV) allows the borrower to in-  
15                  struct the servicer to apply payments  
16                  in a manner preferred by the bor-  
17                  rower.

18                  “(E) REHABILITATION OF LOANS.—If a  
19                  borrower successfully and voluntarily makes 9  
20                  payments within 20 days of the due date during  
21                  10 consecutive months of amounts owed on a  
22                  private education loan, or otherwise brings a  
23                  private education loan current after the loan is  
24                  charged-off, the loan shall be considered reha-  
25                  bilitated, and the lender or servicer shall re-

1           quest that any consumer reporting agency to  
2           which the charge-off was reported remove the  
3           delinquency that led to the charge-off and the  
4           charge-off from the borrower's credit history.

5           “(F) SERVICEMEMBERS, VETERANS, AND  
6           PRIVATE EDUCATION LOANS.—

7           “(i) SERVICEMEMBER AND VETERANS  
8           LIAISON.—Each servicer 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 serv-  
13          icemember and veteran benefits under the  
14          Servicemembers Civil Relief Act (50 U.S.C.  
15          App. 501 et seq.) and other Federal or  
16          State laws related to private education  
17          loans.

18          “(ii) TOLL-FREE TELEPHONE NUM-  
19          BER.—Each servicer shall maintain a toll-  
20          free telephone number that shall—

21                  “(I) connect directly to the serv-  
22                  icemember and veterans liaison des-  
23                  ignated under clause (i); and

24                  “(II) be made available on the  
25                  primary internet website of the

1           servicer and on monthly billing state-  
2           ments.

3           “(iii) PROHIBITION ON CHARGE  
4           OFFS.—A lender or servicer may not  
5           charge off or report a private education  
6           loan as delinquent, assigned to collection  
7           (internally or by referral to a third party),  
8           or charged-off to a credit reporting agency  
9           if the borrower is on active duty in the  
10          Armed Forces (as defined in section  
11          101(d)(1) of title 10, United States Code)  
12          serving in a combat zone (as designated by  
13          the President under section 112(c) of the  
14          Internal Revenue Code of 1986).

15          “(G) BORROWER’S LOAN HISTORY.—

16                 “(i) IN GENERAL.—A servicer shall  
17                 make available through a secure website,  
18                 or in writing upon request, the loan history  
19                 of each borrower for each private education  
20                 loan, separately designating—

21                         “(I) payment history;

22                         “(II) loan history, including any  
23                         forbearances, deferrals, delinquencies,  
24                         assignment to collection, and charge  
25                         offs;

1                   “(III) annual percentage rate  
2                   history; and

3                   “(IV) key loan terms, including  
4                   application of payments to interest,  
5                   principal, and fees, origination date,  
6                   principal, capitalized interest, annual  
7                   percentage rate, including any cap,  
8                   loan term, and any contractual incen-  
9                   tives.

10                  “(ii) ORIGINAL DOCUMENTATION.—A  
11                  servicer shall make available to the bor-  
12                  rower, if requested, at no charge, copies of  
13                  the original loan documents and the prom-  
14                  issory note for each private education loan.

15                  “(H) ERROR RESOLUTION.—The Director  
16                  of the Consumer Financial Protection Bureau,  
17                  in consultation with the Secretary of Education,  
18                  shall promulgate rules requiring servicers to es-  
19                  tablish error resolution procedures to allow bor-  
20                  rowers to inquire about errors related to their  
21                  private education loans and obtain timely reso-  
22                  lution of such errors.

23                  “(I) ADDITIONAL SERVICING STAND-  
24                  ARDS.—The Director of the Consumer Finan-  
25                  cial Protection Bureau, in consultation with the

1 Secretary of Education, may establish addi-  
2 tional servicing standards to reduce delin-  
3 quencies, assignment to collections, and charge-  
4 offs, and to ensure borrowers understand their  
5 rights and obligations related to their private  
6 education loans.

7 “(J) ARBITRATION.—

8 “(i) WAIVER OF RIGHTS AND REM-  
9 EDIES.—Any rights and remedies available  
10 to borrowers against servicers may not be  
11 waived by any agreement, policy, or form,  
12 including by a predispute arbitration  
13 agreement.

14 “(ii) PREDISPUTE ARBITRATION  
15 AGREEMENTS.—No predispute arbitration  
16 agreement shall be valid or enforceable by  
17 a servicer, including as a third-party bene-  
18 ficiary or by estoppel, if the agreement re-  
19 quires arbitration of a dispute with respect  
20 to a private education loan. This subpara-  
21 graph applies to predispute arbitration  
22 agreements entered into before the date of  
23 enactment of the Student Loan Borrower  
24 Bill of Rights, as well as on and after such  
25 date of enactment, if the violation that is

1           the subject of the dispute occurred on or  
2           after such date of enactment.

3           “(K) ENFORCEMENT.—The provisions of  
4           this paragraph shall be enforced by the agencies  
5           specified in subsections (a) through (d) of sec-  
6           tion 108, in the manner set forth in that sec-  
7           tion or under any other applicable authorities  
8           available to such agencies by law.

9           “(L) PREEMPTION.—Nothing in this para-  
10          graph may be construed to preempt any provi-  
11          sion of State law regarding private education  
12          loans where the State law provides stronger  
13          consumer protections.

14          “(M) CIVIL LIABILITY.—A servicer that  
15          fails to comply with any requirement imposed  
16          under this paragraph shall be deemed a creditor  
17          that has failed to comply with a requirement  
18          under this chapter for purposes of liability  
19          under section 130 and such servicer shall be  
20          subject to the applicable liability provisions  
21          under such section.”; and

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

23          “(g) INFORMATION TO BE AVAILABLE AT NO  
24          CHARGE.—The information required to be disclosed under

1 this section shall be made available at no charge to the  
2 borrower.”; and

3 (2) in section 130(a)—

4 (A) in paragraph (3), by striking  
5 “128(e)(7)” and inserting “128(e)(10)”; and

6 (B) in the flush matter at the end, by  
7 striking “or paragraph (4)(C), (6), (7), or (8)  
8 of section 128(e),” and inserting “or paragraph  
9 (4)(C), (9), (10), or (11) of section 128(e),”.

10 **SEC. 3. STUDENT LOAN BORROWER BILL OF RIGHTS.**

11 The Higher Education Act of 1965 (20 U.S.C. 1001  
12 et seq.) is amended—

13 (1) in part G of title IV (20 U.S.C. 1088 et  
14 seq.) by adding at the end the following:

15 **“SEC. 493E. STUDENT LOAN BORROWER BILL OF RIGHTS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) SERVICER.—The term ‘servicer’ means the  
18 person responsible for the servicing of any student  
19 loan, including any agent of such person or the per-  
20 son who makes, owns, or holds a loan if such person  
21 also services the loan.

22 “(2) SERVICING.—The term ‘servicing’  
23 means—

1           “(A) receiving any scheduled periodic pay-  
2           ments from a borrower pursuant to the terms  
3           of a student loan;

4           “(B) making the payments of principal  
5           and interest and such other payments with re-  
6           spect to the amounts received from the bor-  
7           rower, as may be required pursuant to the  
8           terms of the loan; and

9           “(C) performing other administrative serv-  
10          ices with respect to the loan.

11          “(3) STUDENT LOAN.—The term ‘student loan’  
12          means a loan made, insured, or guaranteed under  
13          this title.

14          “(b) TRANSFER OF LENDER OR SERVICER.—If the  
15          sale, other transfer, or assignment of a student loan re-  
16          sults in a change in the identity of the party to whom  
17          the borrower must send subsequent payments or direct  
18          any communications concerning the loan—

19                 “(1) the transferor shall—

20                         “(A) notify the borrower in writing not  
21                         fewer than 45 days before transferring a legally  
22                         enforceable right to receive payment from the  
23                         borrower on such loan, of—

24                                 “(i) the sale, transfer, or assignment;

25                                 “(ii) the identity of the transferee;



1           “(iii) the name and address of the  
2           party to whom subsequent payments or  
3           communications must be sent;

4           “(iv) the telephone numbers and  
5           websites of both the transferor and the  
6           transferee;

7           “(v) the effective date of the sale,  
8           transfer, or assignment;

9           “(vi) the date on which the current  
10          servicer will stop accepting payments; and

11          “(vii) the date on which the transferee  
12          servicer will begin accepting payment; and

13          “(B) forward to the transferee servicer any  
14          payment with respect to such student loan, im-  
15          mediately upon receiving such payment, from a  
16          borrower during the 60-day period beginning on  
17          the date on which the transferor servicer stops  
18          accepting payment for such student loan; and

19          “(2) the transferee shall—

20                 “(A) notify the borrower in writing not  
21                 fewer than 45 days before transferring a legally  
22                 enforceable right to receive payment from the  
23                 borrower on such loan, of—

24                         “(i) the sale, transfer, or assignment;

25                         “(ii) the identity of the transferor;

1           “(iii) the name and address of the  
2 party to whom subsequent payments or  
3 communications must be sent;

4           “(iv) the telephone numbers and  
5 websites of both the transferor and the  
6 transferee;

7           “(v) the effective date of the sale,  
8 transfer, or assignment;

9           “(vi) the date on which the current  
10 servicer will stop accepting payments; and

11           “(vii) the date on which the transferee  
12 servicer will begin accepting payment;

13           “(B) accept as on-time and may not im-  
14 pose any late fee or finance charge with respect  
15 to such student loan for any payment forwarded  
16 from the transferor servicer during the 60-day  
17 period beginning on the date on which the  
18 transferor servicer stops accepting payment, if  
19 the transferor servicer received such payment  
20 from the borrower on or before the applicable  
21 due date, including any grace period;

22           “(C) provide borrowers a simple, online  
23 process for transferring existing electronic fund  
24 transfer authority; and

1           “(D) honor any promotion or benefit of-  
2           ferred to the borrower or advertised by the pre-  
3           vious owner or transferor servicer of such stu-  
4           dent loan.

5           “(c) MATERIAL CHANGE IN MAILING ADDRESS OR  
6           PROCEDURE FOR HANDLING PAYMENTS.—If a servicer  
7           makes a change in the mailing address, office, or proce-  
8           dures for handling payments with respect to any student  
9           loan, and such change causes a delay in the crediting of  
10          the account of the borrower made during the 60-day pe-  
11          riod following the date on which such change took effect,  
12          the servicer may not impose any late fee or finance charge  
13          for a late payment on such student loan.

14          “(d) ELIGIBILITY FOR DISCHARGE.—The Director of  
15          the Consumer Financial Protection Bureau, in consulta-  
16          tion with the Secretary, shall promulgate rules requiring  
17          lenders and servicers to—

18                 “(1) identify and contact borrowers who may be  
19                 eligible for student loan discharge by the Secretary;

20                 “(2) provide the borrower, in writing, in simple  
21                 and understandable terms, information about obtain-  
22                 ing such discharge; and

23                 “(3) create a streamlined process for eligible  
24                 borrowers to apply for and receive such discharge.

25          “(e) APPLICATION OF PAYMENTS.—

1           “(1) IN GENERAL.—Notwithstanding any other  
2 provision of this Act, the Director of the Consumer  
3 Financial Protection Bureau, in consultation with  
4 the Secretary, shall issue rules for the application of  
5 student loan payments that—

6           “(A) minimizes the amount of fees and in-  
7 terest incurred by the borrower and the total  
8 loan amount paid by the borrower;

9           “(B) minimizes delinquencies, assignments  
10 to collection, and charge offs;

11           “(C) requires servicers to apply payments  
12 on the date received; and

13           “(D) allows the borrower to direct the  
14 servicer to apply payments in a manner pre-  
15 ferred by the borrower.

16           “(2) METHOD THAT BEST BENEFITS BOR-  
17 ROWER.—In issuing the rules under paragraph (1),  
18 the Director of the Consumer Financial Protection  
19 Bureau shall choose the application method that  
20 best benefits the borrower and is compatible with ex-  
21 isting repayment options.

22           “(f) SERVICEMEMBERS, VETERANS, AND STUDENT  
23 LOANS.—

24           “(1) SERVICEMEMBER AND VETERANS LIAI-  
25 SON.—Each servicer of a student loan shall des-

1        designate an employee to act as the servicemember and  
2        veterans liaison who is responsible for answering in-  
3        quires from servicemembers and veterans, and is  
4        specially trained on servicemember and veteran ben-  
5        efits and options under the Servicemembers Civil  
6        Relief Act (50 U.S.C. App. 501 et seq.) and other  
7        Federal or State laws related to student loans.

8            “(2) TOLL-FREE TELEPHONE NUMBER.—Each  
9        servicer of a student loan shall maintain a toll-free  
10       telephone number for the servicemember and vet-  
11       erans liaison designated under paragraph (1), which  
12       shall be made available on the primary Internet  
13       website of the servicer and on monthly billing state-  
14       ments.

15           “(3) PROHIBITION ON DEFAULT.—Notwith-  
16       standing any other provision of this Act, a servicer  
17       may not report a student loan as delinquent, as-  
18       signed to collection (internally or by referral to a  
19       third party), charged off, or in default, to a credit  
20       reporting agency if the borrower is on active duty in  
21       the Armed Forces (as defined in section 101(d)(1)  
22       of title 10, United States Code) serving in a combat  
23       zone (as designated by the President under section  
24       112(c) of the Internal Revenue Code of 1986).

1           “(4) ADDITIONAL LIAISONS.—The Secretary  
2 shall determine additional entities with whom bor-  
3 rowers interact, including guaranty agencies, that  
4 shall designate an employee to act as the service-  
5 member and veterans liaison who is responsible for  
6 answering inquiries from servicemembers and vet-  
7 erans, and is specially trained on servicemember and  
8 veteran benefits and options under the  
9 Servicemembers Civil Relief Act (50 U.S.C. App.  
10 501 et seq.) and other Federal or State laws related  
11 to student loans.

12           “(g) BORROWER’S LOAN HISTORY.—

13           “(1) IN GENERAL.—A servicer of a student loan  
14 shall make available through a secure website, or in  
15 writing upon request, the loan history of each bor-  
16 rower for each student loan, separately desig-  
17 nating—

18                   “(A) payment history;

19                   “(B) loan history, including any  
20 forbearances, deferrals, delinquencies, and de-  
21 faults;

22                   “(C) annual percentage rate history; and

23                   “(D) key loan terms, including application  
24 of payments to interest, principal, and fees,  
25 origination date, principal, capitalized interest,

1           annual percentage rate, including any cap, loan  
2           term, and any contractual incentives.

3           “(2) ORIGINAL DOCUMENTATION.—A servicer  
4           shall make available to the borrower, if requested, at  
5           no charge, copies of the original loan documents and  
6           the promissory note for each student loan.

7           “(h) ERROR RESOLUTION.—The Director of the Con-  
8           sumer Financial Protection Bureau, in consultation with  
9           the Secretary, shall promulgate rules requiring servicers  
10          to establish error resolution procedures to allow borrowers  
11          to inquire about errors related to their student loans and  
12          obtain timely resolution of such errors.

13          “(i) ADDITIONAL SERVICING STANDARDS.—The Di-  
14          rector of the Consumer Financial Protection Bureau, in  
15          consultation with the Secretary, may establish additional  
16          servicing standards to reduce delinquencies, assignments  
17          to collection, and defaults, and to ensure borrowers under-  
18          stand their rights and obligations related to their student  
19          loans.

20          “(j) PROMULGATION OF RULES.—The Director of  
21          the Consumer Financial Protection Bureau, in consulta-  
22          tion with the Secretary, shall promulgate rules imple-  
23          menting this section.”;

24                   (2) in section 433 (20 U.S.C. 1083)—

25                           (A) in subsection (b)—

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

3 (ii) in paragraph (13), by striking the  
4 period at the end and inserting “; and”;  
5 and

6 (iii) by adding at the end the fol-  
7 lowing:

8 “(14) a statement that—

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

14 “(B) a Servicemember and Veterans Liai-  
15 son designated under section 493E(f) is avail-  
16 able to answer inquiries about servicemember  
17 and veteran benefits, including the toll-free tele-  
18 phone number to contact the Liaison pursuant  
19 to section 493E(f).”; and

20 (B) in subsection (e)—

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

23 “(D) A statement that—

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



1 the Servicemembers Civil Relief Act (50  
2 U.S.C. App. 501 et seq.) and other Fed-  
3 eral or State laws; and

4 “(ii) a Servicemember and Veterans  
5 Liaison designated under section 493E(f)  
6 is available to answer inquiries about serv-  
7 icemember and veteran benefits, including  
8 the toll-free telephone number to contact  
9 the Liaison pursuant to section 493E(f).”;

10 (ii) in paragraph (3), by adding at the  
11 end the following:

12 “(F) A statement that—

13 “(i) the borrower may be entitled to  
14 servicemember and veteran benefits under  
15 the Servicemembers Civil Relief Act (50  
16 U.S.C. App. 501 et seq.) and other Fed-  
17 eral or State laws; and

18 “(ii) a Servicemember and Veterans  
19 Liaison designated under section 493E(f)  
20 is available to answer inquiries about serv-  
21 icemember and veteran benefits, including  
22 the toll-free telephone number to contact  
23 the Liaison pursuant to section 493E(f).”;  
24 and

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(4) NOTIFICATION OF REPAYMENT OPTIONS  
4 AND ALTERNATIVES TO DEFAULT.—The Secretary  
5 shall require eligible lenders to, not later than 1 year  
6 after the date of enactment of the Student Loan  
7 Borrower Bill of Rights—

8 “(A) notify borrowers, in writing, in simple  
9 and understandable terms, about alternative re-  
10 payment options, including income-based repay-  
11 ment, income contingent repayment, consolida-  
12 tion, and forgiveness options, as well as service-  
13 member or veteran benefits under the  
14 Servicemembers Civil Relief Act (50 U.S.C.  
15 App. 501 et seq.) or other Federal or State  
16 laws;

17 “(B) provide borrowers, in writing, in sim-  
18 ple and understandable terms, information  
19 about alternative repayment plans, including all  
20 terms, conditions, and fees or costs associated  
21 with such repayment plans in a format that al-  
22 lows the borrower to compare the current re-  
23 payment plan with alternative repayment plans;  
24 and

1           “(C) offer to enroll such borrowers in al-  
2           ternative repayment plans, if eligible.”; and

3           (3) in section 455(d) (20 U.S.C. 1087e(d)), by  
4           adding at the end the following:

5           “(6) NOTIFICATION OF REPAYMENT OPTIONS.—  
6           The Secretary shall carry out, not later than 1 year  
7           after the date of enactment of the Student Loan  
8           Borrower Bill of Rights, the activities described in  
9           subparagraphs (A), (B), and (C) of section  
10          433(e)(4) with respect to loans made under this  
11          part.”.

12 **SEC. 4. KNOW BEFORE YOU OWE.**

13          (a) AMENDMENTS TO THE TRUTH IN LENDING  
14          ACT.—

15                  (1) IN GENERAL.—Section 128(e) of the Truth  
16          in Lending Act (15 U.S.C. 1638(e)), as amended by  
17          section 2, is further amended—

18                          (A) by striking paragraph (3) and insert-  
19                          ing the following:

20                          “(3) INSTITUTIONAL CERTIFICATION RE-  
21                          QUIRED.—

22                                  “(A) IN GENERAL.—Except as provided in  
23                                  subparagraph (B), before a creditor may issue  
24                                  any funds with respect to an extension of credit  
25                                  described in this subsection, the creditor shall

1 obtain from the relevant institution of higher  
2 education where such loan is to be used for a  
3 student, such institution's certification of—

4 “(i) the enrollment status of the stu-  
5 dent;

6 “(ii) the student's cost of attendance  
7 at the institution as determined by the in-  
8 stitution under part F of title IV of the  
9 Higher Education Act of 1965; and

10 “(iii) the difference between—

11 “(I) such cost of attendance; and

12 “(II) the student's estimated fi-  
13 nancial assistance, including such as-  
14 sistance received under title IV of the  
15 Higher Education Act of 1965 and  
16 other financial assistance known to  
17 the institution, as applicable.

18 “(B) EXCEPTION.—Notwithstanding sub-  
19 paragraph (A), a creditor may issue funds, not  
20 to exceed the amount described in subpara-  
21 graph (A)(iii), with respect to an extension of  
22 credit described in this subsection without ob-  
23 taining from the relevant institution of higher  
24 education such institution's certification if such  
25 institution fails to provide within 15 business

1 days of the creditor's request for such certifi-  
 2 cation—

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

5 “(ii) notification that the institution  
 6 has received the request for certification  
 7 and will need additional time to comply  
 8 with the certification request.

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

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

17 “(16) PROVISION OF INFORMATION.—

18 “(A) PROVISION OF INFORMATION TO STU-  
 19 DENTS.—

20 “(i) LOAN STATEMENT.—A creditor  
 21 that issues any funds with respect to an  
 22 extension of credit described in this sub-  
 23 section shall send loan statements, where  
 24 such loan is to be used for a student, to  
 25 borrowers of such funds not less than once

1 every 3 months during the time that such  
2 student is enrolled at an institution of  
3 higher education.

4 “(ii) CONTENTS OF LOAN STATE-  
5 MENT.—Each statement described in  
6 clause (i) shall—

7 “(I) report the borrower’s total  
8 remaining debt to the creditor, includ-  
9 ing accrued but unpaid interest and  
10 capitalized interest;

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

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

15 “(B) NOTIFICATION OF LOANS DISBURSED  
16 WITHOUT CERTIFICATION.—On or before the  
17 date a creditor issues any funds with respect to  
18 an extension of credit described in this sub-  
19 section, the creditor shall notify the relevant in-  
20 stitution of higher education, in writing, of the  
21 amount of the extension of credit and the stu-  
22 dent on whose behalf credit is extended. The  
23 form of such written notification shall be sub-  
24 ject to the regulations of the Consumer Finan-  
25 cial Protection Bureau.

1           “(C) ANNUAL REPORT.—A creditor that  
2 issues funds with respect to an extension of  
3 credit described in this subsection shall prepare  
4 and submit an annual report to the Consumer  
5 Financial Protection Bureau containing the re-  
6 quired information about private student loans  
7 to be determined by the Consumer Financial  
8 Protection Bureau, in consultation with the  
9 Secretary of Education.”.

10           (2) DEFINITION OF PRIVATE EDUCATION  
11 LOAN.—Section 140(a)(7)(A) of the Truth in Lend-  
12 ing Act (15 U.S.C. 1650(a)(7)(A)) is amended—

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

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

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

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

22           (3) REGULATIONS.—Not later than 365 days  
23 after the date of enactment of this Act, the Director  
24 of the Consumer Financial Protection Bureau shall  
25 issue regulations in final form to implement para-

1 graphs (3) and (16) of section 128(e) of the Truth  
2 in Lending Act (15 U.S.C. 1638(e)), as amended by  
3 paragraph (1). Such regulations shall become effective  
4 not later than 6 months after their date of  
5 issuance.

6 (b) AMENDMENTS TO THE HIGHER EDUCATION ACT  
7 OF 1965.—

8 (1) PROGRAM PARTICIPATION AGREEMENTS.—  
9 Section 487(a) of the Higher Education Act of 1965  
10 (20 U.S.C. 1094(a)) is amended by striking para-  
11 graph (28) and inserting the following:

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

19 “(i) provide such certification to such  
20 private educational lender—

21 “(I) that the student who initi-  
22 ated the application for the private  
23 education loan, or on whose behalf the  
24 application was initiated, is enrolled



1 or is scheduled to enroll at the institu-  
2 tion;

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

6 “(III) of the difference be-  
7 tween—

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

10 “(bb) the student’s esti-  
11 mated financial assistance re-  
12 ceived under this title and other  
13 assistance known to the institu-  
14 tion, as applicable;

15 “(ii) notify the creditor that the insti-  
16 tution has received the request for certifi-  
17 cation and will need additional time to  
18 comply with the certification request; or

19 “(iii) provide notice to the private  
20 educational lender of the institution’s re-  
21 fusal to certify the private education loan  
22 under subparagraph (D).

23 “(B) With respect to a certification request  
24 described in subparagraph (A), and prior to  
25 providing such certification under subparagraph

1 (A)(i) or providing notice of the refusal to pro-  
2 vide certification under subparagraph (A)(iii),  
3 the institution shall—

4 “(i) determine whether the student  
5 who initiated the application for the pri-  
6 vate education loan, or on whose behalf the  
7 application was initiated, has applied for  
8 and exhausted the Federal financial assist-  
9 ance available to such student under this  
10 title and inform the student accordingly;  
11 and

12 “(ii) provide the borrower whose loan  
13 application has prompted the certification  
14 request by a private education lender, as  
15 described in subparagraph (A)(i), with the  
16 following information and disclosures:

17 “(I) The availability of, and the  
18 borrower’s potential eligibility for,  
19 Federal financial assistance under this  
20 title, including disclosing the terms,  
21 conditions, interest rates, and repay-  
22 ment options and programs of Federal  
23 student loans.

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

4           “(III) The impact of a proposed  
5           private education loan on the bor-  
6           rower’s potential eligibility for other  
7           financial assistance, including Federal  
8           financial assistance under this title.

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

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

21          “(D)(i) An institution shall not provide a  
22          certification with respect to a private education  
23          loan under this paragraph unless the private  
24          education loan includes terms that provide—

1           “(I) the borrower alternative repay-  
2           ment plans, including loan consolidation or  
3           refinancing; and

4           “(II) that the liability to repay the  
5           loan shall be cancelled upon the death or  
6           disability of the borrower or co-borrower.

7           “(ii) In this paragraph, the term ‘dis-  
8           ability’ means a permanent and total disability,  
9           as determined in accordance with the regula-  
10          tions of the Secretary of Education, or a deter-  
11          mination by the Secretary of Veterans Affairs  
12          that the borrower is unemployable due to a  
13          service connected-disability.”.

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

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

22          (c) REPORT.—Not later than 24 months after the  
23          issuance of regulations under subsection (a)(3), the Direc-  
24          tor of the Consumer Financial Protection Bureau and the  
25          Secretary of Education shall jointly submit to Congress

1 a report on the compliance of institutions of higher edu-  
2 cation and private educational lenders with section  
3 128(e)(3) of the Truth in Lending Act (15 U.S.C.  
4 1638(e)), as amended by subsection (a), and section  
5 487(a)(28) of the Higher Education Act of 1965 (20  
6 U.S.C. 1094(a)), as amended by subsection (b). Such re-  
7 port shall include information about the degree to which  
8 specific institutions utilize certifications in effectively en-  
9 couraging the exhaustion of Federal student loan eligi-  
10 bility and lowering student private education loan debt.

11 **SEC. 5. REPORT ON STUDENT LOAN SERVICERS.**

12 Not later than 1 year after the date of enactment  
13 of this Act, the Director of the Consumer Financial Pro-  
14 tection Bureau, in consultation with the Secretary of Edu-  
15 cation, shall submit a report to the Committee on Bank-  
16 ing, Housing, and Urban Affairs of the Senate, the Com-  
17 mittee on Health, Education, Labor, and Pensions of the  
18 Senate, the Committee on Financial Services of the House  
19 of Representatives, and the Committee on Education and  
20 the Workforce of the House of Representatives on private  
21 and Federal student loan servicers, including—

- 22 (1) any legislative recommendations to improve  
23 student loan servicing standards; and

- 1           (2) information on proactive early intervention
- 2           methods by servicers to help distressed student loan
- 3           borrowers enroll in any eligible repayment plans.

○