

115TH CONGRESS
1ST SESSION

H. R. 3836

To amend the Higher Education Act of 1965 and the Truth in Lending Act to clarify the application of prepayment amounts on student loans.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2017

Mrs. DAVIS of California introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Higher Education Act of 1965 and the Truth in Lending Act to clarify the application of prepayment amounts on student loans.

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 Fair
5 Prepayment Act”.

1 **SEC. 2. APPLICATION OF PREPAYMENT AMOUNTS FOR**
2 **FFEL AND DIRECT LOANS.**

3 Section 455(d) of the Higher Education Act of 1965
4 (20 U.S.C. 1087e(d)) is amended by adding at the end
5 the following new paragraph:

6 “(6) APPLICATION OF PREPAYMENT
7 AMOUNTS.—

8 “(A) REQUIREMENT.—Notwithstanding
9 any other provision of this subsection or any
10 other provision of law, with respect to loans
11 made to an eligible borrower under this part or
12 part B, which are held by the same holder
13 and—

14 “(i) which have different applicable
15 rates of interest, the holder of such loans
16 shall, unless otherwise requested by the
17 borrower in writing, apply the borrower’s
18 prepayment amount (within the meaning
19 of section 682.209(b)(2) of title 34, Code
20 of Federal Regulations, or a successor reg-
21 ulation) for one or more of such loans,
22 first toward the outstanding balance of
23 principal due on the loan with the highest
24 applicable rate of interest among such
25 loans; and

1 “(ii) which have the same applicable
2 rates of interest, the holder of such loans
3 shall, unless otherwise requested by the
4 borrower in writing, apply the borrower’s
5 prepayment amount (as described in clause
6 (i)) for one or more of such loans, first to-
7 ward the outstanding balance of principal
8 due on the loan with the highest principal
9 balance among such loans.

10 “(B) ELIGIBLE BORROWER.—

11 “(i) IN GENERAL.—The term ‘eligible
12 borrower’ means a borrower with no out-
13 standing balance of fees, including collec-
14 tion costs and authorized late charges, due
15 on any loan made under this part or part
16 B.

17 “(ii) PREPAYMENT AMOUNTS.—A pre-
18 payment amount (as described in subpara-
19 graph (A)) made by a borrower who is not
20 an eligible borrower to a holder shall be
21 applied first toward the borrower’s out-
22 standing balance of fees, including collec-
23 tion costs and authorized late charges, due
24 on any loan made under this part or part
25 B held by such holder.

1 “(C) EXCEPTIONS.—This paragraph shall
2 not apply to an income-based repayment plan
3 under section 493C or an income contingent re-
4 payment plan under section 455(d)(1)(D), such
5 as a Pay As You Earn repayment plan.”.

6 **SEC. 3. APPLICATION OF PREPAYMENT AMOUNTS FOR PER-**
7 **KINS LOANS.**

8 Section 464(c)(1)(C) of the Higher Education Act of
9 1965 (20 U.S.C. 1087dd(c)(1)(C)) is amended—

10 (1) by striking “and” at the end of clause (i);

11 and

12 (2) by adding at the end the following:

13 “(iii) shall provide that the institution
14 shall, in the case of a borrower with no
15 outstanding balance of fees (including col-
16 lection costs and authorized late charges)
17 due on the loans held by the institution
18 and who repays more than the amount due
19 for a repayment period, with respect to
20 loans held by the same institution and—

21 “(I) which have different applica-
22 ble rates of interest, use the excess to
23 prepay (within the meaning of section
24 674.31(b)(4)(iv) of title 34, Code of
25 Federal Regulations, or a successor

1 regulation) the principal due on the
2 loan with the highest applicable rate
3 of interest among such loans, unless
4 otherwise requested by the borrower
5 in writing; and

6 “(II) which have the same appli-
7 cable rates of interest, use the excess
8 to prepay (as described in subclause
9 (I)) the principal due on the loan with
10 the highest principal balance among
11 such loans, unless otherwise requested
12 by the borrower in writing; and

13 “(iv) shall provide that the institution
14 shall, in the case of a borrower with an
15 outstanding balance of fees (such as collec-
16 tion costs and authorized late charges) due
17 on the loans held by the institution and
18 who repays more than the amount due for
19 a repayment period, first apply such excess
20 toward such outstanding balance of fees;”.

21 **SEC. 4. APPLICATION OF PREPAYMENT AMOUNTS FOR PRI-**
22 **VATE EDUCATION LOANS.**

23 Section 128(e) of the Truth in Lending Act (15
24 U.S.C. 1638(e)) is amended by adding at the end the fol-
25 lowing:

1 “(12) APPLICATION OF PREPAYMENT
2 AMOUNTS.—

3 “(A) IN GENERAL.—Notwithstanding any
4 other provision of law, with respect to a bor-
5 rower with more than one private education
6 loan which are held by the same holder and—

7 “(i) which have different applicable
8 rates of interest, the holder of such loans
9 shall, unless otherwise requested by the
10 borrower in writing, apply the borrower’s
11 prepayment amount (within the meaning
12 of section 682.209(b)(2) of title 34, Code
13 of Federal Regulations, or a successor reg-
14 ulation) for one or more of such loans,
15 first toward the outstanding balance of
16 principal due on the loan with the highest
17 applicable rate of interest among such
18 loans; and

19 “(ii) which have the same applicable
20 rates of interest, the holder of such loans
21 shall, unless otherwise requested by the
22 borrower in writing, apply the borrower’s
23 prepayment amount (as described in clause
24 (i)) for one or more of such loans, first to-
25 ward the outstanding balance of principal

1 due on the loan with the highest principal
2 balance among such loans.

3 “(B) EXCEPTION.—

4 “(i) IN GENERAL.—Subparagraph (A)
5 shall not apply to any prepayment amount
6 made by a borrower to a holder if the bor-
7 rower has an outstanding balance of fees,
8 including collection costs and authorized
9 late charges, due on any private education
10 loan held by such holder.

11 “(ii) PREPAYMENT AMOUNTS.—A pre-
12 payment amount made by a borrower de-
13 scribed in clause (i) of this subparagraph
14 to a holder shall be applied first toward
15 the borrower’s outstanding balance of fees,
16 including collection costs and authorized
17 late charges, due on any private education
18 loan held by such holder.”.

○