

114TH CONGRESS
1ST SESSION

S. 840

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

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2015

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. 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 the subsection heading, by strik-
2 ing “PRIVATE”;

3 (ii) in paragraph (1)(O), by striking
4 “paragraph (6)” and inserting “paragraph
5 (9)”;

6 (iii) in paragraph (2)(L), by striking
7 “paragraph (6)” and inserting “paragraph
8 (9)”;

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

12 (v) by redesignating paragraphs (5)
13 through (11) as paragraphs (8) through
14 (14), 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 shall disclose to the borrower, clearly
23 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 lender and servicer,
19 and the address to which communications and
20 payments should be sent including a telephone
21 number and website where the borrower may
22 obtain additional information;

23 “(D) a description of alternative repay-
24 ment plans, including loan consolidation or refi-
25 nancing, and servicemember or veteran benefits

1 under the Servicemembers Civil Relief Act (50
2 U.S.C. App. 501 et seq.) or other Federal or
3 State law related to postsecondary education
4 loans; and

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

12 “(6) DISCLOSURES WHEN BORROWER IS 30
13 DAYS DELINQUENT.—Not fewer than 5 days after a
14 borrower becomes 30 days delinquent on a postsec-
15 ondary education loan, the postsecondary edu-
16 cational lender shall disclose to the borrower, clearly
17 and conspicuously—

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

23 “(B) the minimum payment that the bor-
24 rower must make to avoid the loan being
25 charged off (as defined in paragraph (15)(A))

1 or assigned to collection, and the minimum pay-
2 ment that the borrower must make to bring the
3 loan current;

4 “(C) a statement informing the borrower
5 that a payment of less than the minimum pay-
6 ment described in subparagraph (B) could re-
7 sult in the loan being charged off (as defined in
8 paragraph (15)(A)) or assigned to collection;
9 and

10 “(D) a statement that a Servicemember
11 and Veterans Liaison designated under para-
12 graph (15)(I) is available to answer inquiries
13 about servicemember and veteran benefits re-
14 lated to postsecondary education loans, includ-
15 ing the toll-free telephone number to contact
16 the Liaison pursuant to paragraph (15)(I).

17 “(7) DISCLOSURES WHEN BORROWER IS HAV-
18 ING DIFFICULTY MAKING PAYMENT OR IS 60 DAYS
19 DELINQUENT.—

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

1 cation loan, the postsecondary educational lend-
2 er shall—

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

7 “(I) if the borrower is eligible for
8 an alternative repayment plan, includ-
9 ing loan consolidation or refinancing;
10 and

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

17 “(ii) provide the borrower, in writing,
18 in simple and understandable terms, infor-
19 mation about alternative repayment plans
20 and benefits for which the borrower is eli-
21 gible, including all terms, conditions, and
22 fees or costs associated with such repay-
23 ment plan, pursuant to paragraph (8)(D);

1 “(iii) allow the borrower not less than
2 30 days to apply for an alternative repay-
3 ment plan or benefits, if eligible; and

4 “(iv) notify the borrower that a Serv-
5 icemember and Veterans Liaison des-
6 ignated under paragraph (15)(I) is avail-
7 able to answer inquiries about servicemem-
8 ber and veteran benefits related to postsec-
9 ondary education loans, including the toll-
10 free telephone number to contact the Liai-
11 son pursuant to paragraph (15)(I).

12 “(B) FORBEARANCE OR DEFERMENT.—If
13 a borrower notifies the postsecondary edu-
14 cational lender that a long-term alternative re-
15 payment plan is not appropriate, the postsec-
16 ondary educational lender may comply with this
17 paragraph by providing the borrower, in writ-
18 ing, in simple and understandable terms, infor-
19 mation about short-term options to address an
20 anticipated short-term difficulty in making pay-
21 ments, such as forbearance or deferment op-
22 tions, including all terms, conditions, and fees
23 or costs associated with such options pursuant
24 to paragraph (8)(D).

25 “(C) NOTIFICATION PROCESS.—

1 “(i) IN GENERAL.—Each postsec-
 2 ondary educational lender shall establish a
 3 process, in accordance subparagraph (A),
 4 for a borrower to notify the lender that—

5 “(I) the borrower is having dif-
 6 ficulty making payments on a postsec-
 7 ondary education loan; and

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

10 “(ii) CONSUMER FINANCIAL PROTEC-
 11 TION BUREAU REQUIREMENTS.—The Di-
 12 rector of the Bureau of Consumer Finan-
 13 cial Protection, in consultation with the
 14 Secretary of Education, shall promulgate
 15 rules establishing minimum standards for
 16 postsecondary educational lenders in car-
 17 rying out the requirements of this para-
 18 graph and a model form for borrowers to
 19 notify postsecondary educational lenders of
 20 the information under this paragraph.”;

21 (vii) in paragraph (8), as redesignated
 22 by clause (v), by adding at the end the fol-
 23 lowing:

24 “(D) MODEL DISCLOSURE FORM FOR AL-
 25 TERNATIVE REPAYMENT PLANS, FORBEARANCE,

1 AND DEFERMENT OPTIONS.—Not later than 2
2 years after the date of enactment of the Stu-
3 dent Loan Borrower Bill of Rights, the Director
4 of the Bureau of Consumer Financial Protec-
5 tion, in consultation with the Secretary of Edu-
6 cation, shall develop and issue model forms to
7 allow borrowers to compare alternative repay-
8 ment plans, forbearance, and deferment options
9 with the borrower’s existing repayment plan
10 with respect to a postsecondary education loan.
11 Such forms shall include the following:

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

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

16 “(iii) The monthly payment amount.

17 “(iv) The expected pay-off date.

18 “(v) Related fees and costs.

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

23 “(vii) Any relevant consequences due
24 to action or inaction, such as default, in-
25 cluding any actions that would result in

1 the loss of eligibility for alternative repay-
2 ment plans, forbearance, or deferment op-
3 tions.”;

4 (viii) in paragraph (11), as redesignig-
5 nated by clause (v), by striking “paragraph
6 (7)” and inserting “paragraph (10)”;

7 (ix) by striking paragraph (13), as re-
8 designated by clause (v), and inserting the
9 following:

10 “(13) DEFINITIONS.—In this subsection—

11 “(A) the terms ‘covered educational insti-
12 tution’, ‘private educational lender’, and ‘pri-
13 vate education loan’ have the same meanings as
14 in section 140; and

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

17 “(i) a private education loan; or

18 “(ii) a loan made, insured, or guaran-
19 teed under part B, D, or E of title IV of
20 the Higher Education Act of 1965 (20
21 U.S.C. 1071 et seq., 1087a et seq., and
22 1087aa et seq.).”;

23 (x) in paragraph (14), as redesignated
24 by clause (v), by striking “paragraph (5)”
25 and inserting “paragraph (8)”; and

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

3 “(15) STUDENT LOAN BORROWER BILL OF
 4 RIGHTS.—

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

6 “(i) BORROWER.—The term ‘bor-
 7 rower’ means the person to whom a post-
 8 secondary education loan is extended.

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

12 “(iii) QUALIFIED WRITTEN RE-
 13 QUEST.—

14 “(I) IN GENERAL.—The term
 15 ‘qualified written request’ means a
 16 written correspondence of a borrower
 17 (other than notice on a payment me-
 18 dium supplied by the student loan
 19 servicer) transmitted by mail, fac-
 20 simile, or electronically through an
 21 email address or website designated
 22 by the student loan servicer to receive
 23 communications from borrowers
 24 that—

1 “(aa) includes, or otherwise
2 enables the student loan servicer
3 to identify, the name and account
4 of the borrower; and

5 “(bb) includes, to the extent
6 applicable—

7 “(AA) sufficient detail
8 regarding the information
9 sought by the borrower; or

10 “(BB) a statement of
11 the reasons for the belief of
12 the borrower that there is
13 an error regarding the ac-
14 count of the borrower.

15 “(II) CORRESPONDENCE DELIV-
16 ERED TO OTHER ADDRESSES.—

17 “(aa) IN GENERAL.—A writ-
18 ten correspondence of a borrower
19 is a qualified written request if
20 the written correspondence is
21 transmitted to and received by a
22 student loan servicer at a mailing
23 address, facsimile number, email
24 address, or website address other
25 than the address or number des-

1 ignated by that student loan
2 servicer to receive communica-
3 tions from borrowers but the
4 written correspondence meets the
5 requirements under items (aa)
6 and (bb) of subclause (I).

7 “(bb) DUTY TO TRANS-
8 FER.—A student loan servicer
9 shall, within a reasonable period
10 of time, transfer a written cor-
11 respondence of a borrower re-
12 ceived by the student loan
13 servicer at a mailing address, fac-
14 simile number, email address, or
15 website address other than the
16 address or number designated by
17 that student loan servicer to re-
18 ceive communications from bor-
19 rowers to the correct address or
20 appropriate office or other unit of
21 the student loan servicer.

22 “(cc) DATE OF RECEIPT.—A
23 written correspondence of a bor-
24 rower transferred in accordance
25 with item (bb) shall be deemed to

1 be received by the student loan
2 servicer on the date on which the
3 written correspondence is trans-
4 ferred to the correct address or
5 appropriate office or other unit of
6 the student loan servicer.

7 “(iv) SERVICER.—The term ‘servicer’
8 means the person responsible for the serv-
9 icing of a postsecondary education loan, in-
10 cluding any agent of such person or the
11 person who makes, owns, or holds a loan
12 if such person also services the loan.

13 “(v) SERVICING.—The term ‘serv-
14 icing’ means—

15 “(I) receiving any scheduled peri-
16 odic payments from a borrower pursu-
17 ant to the terms of a postsecondary
18 education loan;

19 “(II) making the payments of
20 principal and interest and such other
21 payments with respect to the amounts
22 received from the borrower, as may be
23 required pursuant to the terms of the
24 loan; and

1 “(III) performing other adminis-
2 trative services with respect to the
3 loan.

4 “(B) SALE, TRANSFER, OR ASSIGNMENT.—
5 If the sale, other transfer, assignment, or trans-
6 fer of servicing obligations of a postsecondary
7 education loan results in a change in the iden-
8 tity of the party to whom the borrower must
9 send subsequent payments or direct any com-
10 munications concerning the loan—

11 “(i) the transferor shall—

12 “(I) notify the borrower, in writ-
13 ing, in simple and understandable
14 terms, not fewer than 45 days before
15 transferring a legally enforceable right
16 to receive payment from the borrower
17 on such loan, of—

18 “(aa) the sale or other
19 transfer, assignment, or transfer
20 of servicing obligations;

21 “(bb) the identity of the
22 transferee;

23 “(cc) the name and address
24 of the party to whom subsequent

1 payments or communications
2 must be sent;

3 “(dd) the telephone numbers
4 and websites of both the trans-
5 feror and the transferee;

6 “(ee) the effective date of
7 the sale, transfer, or assignment;

8 “(ff) the date on which the
9 transferor will stop accepting
10 payment; and

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

14 “(II) forward any payment from
15 a borrower with respect to such post-
16 secondary education loan to the trans-
17 feree, immediately upon receiving such
18 payment, during the 60-day period be-
19 ginning on the date on which the
20 transferor stops accepting payment of
21 such postsecondary education loan;
22 and

23 “(ii) the transferee shall—

24 “(I) notify the borrower, in writ-
25 ing, in simple and understandable

1 terms, not fewer than 45 days before
2 acquiring a legally enforceable right to
3 receive payment from the borrower on
4 such loan, of—

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

8 “(bb) the identity of the
9 transferor:

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

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

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

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

23 “(gg) the date on which the
24 transferee will begin accepting
25 payment;

1 “(II) accept as on-time and may
2 not impose any late fee or finance
3 charge for any payment from a bor-
4 rower with respect to such postsec-
5 ondary education loan that is for-
6 warded from the transferor during the
7 60-day period beginning on the date
8 on which the transferor stops accept-
9 ing payment, if the transferor receives
10 such payment on or before the appli-
11 cable due date, including any grace
12 period;

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

17 “(IV) honor any promotion or
18 benefit offered to the borrower or ad-
19 vertised by the previous owner or
20 transferor of such postsecondary edu-
21 cation loan.

22 “(C) MATERIAL CHANGE IN MAILING AD-
23 DRESS OR PROCEDURE FOR HANDLING PAY-
24 MENTS.—If a servicer makes a change in the
25 mailing address, office, or procedures for han-

1 dling payments with respect to any postsec-
2 ondary education loan, and such change causes
3 a delay in the crediting of the account of the
4 borrower made during the 60-day period fol-
5 lowing the date on which such change took ef-
6 fect, the servicer may not impose any late fee
7 or finance charge for a late payment on such
8 postsecondary education loan.

9 “(D) APPLICATION OF PAYMENTS.—

10 “(i) IN GENERAL.—Unless otherwise
11 directed by the borrower of a postsec-
12 ondary education loan, upon receipt of a
13 payment, the servicer shall apply amounts
14 first to the interest and fees owed on the
15 payment due date, and then to the prin-
16 cipal balance of the postsecondary edu-
17 cation loan bearing the highest annual per-
18 centage rate, and then to each successive
19 interest and fees and then principal bal-
20 ance bearing the next highest annual per-
21 centage rate, until the payment is ex-
22 hausted. A borrower may instruct or ex-
23 pressly authorize the servicer to apply pay-
24 ments in a different manner.

1 “(ii) APPLICATION OF EXCESS
2 AMOUNTS.—Unless otherwise directed by
3 the borrower of a postsecondary education
4 loan, upon receipt of a payment, the
5 servicer shall apply amounts in excess of
6 the minimum payment amount first to the
7 interest and fees owed on the payment due
8 date, and then to the principal balance of
9 the postsecondary education loan balance
10 bearing the highest annual percentage
11 rate, and then to each successive interest
12 and fees and principal balance bearing the
13 next highest annual percentage rate, until
14 the payment is exhausted. A borrower may
15 instruct or expressly authorize the servicer
16 to apply such excess payments in a dif-
17 ferent manner. A borrower may also volun-
18 tarily increase the periodic payment
19 amount, including by increasing their re-
20 curring electronic payment, with the right
21 to return to their original amortization
22 schedule at any time. Servicers shall pro-
23 vide a simple, online method to allow bor-
24 rowers to make voluntary one-time addi-
25 tional payments, voluntarily increase the

1 amount of their periodic payment, and re-
2 turn to their original amortization sched-
3 ule.

4 “(iii) APPLY PAYMENT ON DATE RE-
5 CEIVED.—Unless otherwise directed by the
6 borrower of a postsecondary education
7 loan, a servicer shall apply payments to a
8 borrower’s account on the date the pay-
9 ment is received.

10 “(iv) PROMULGATION OF RULES.—
11 The Director of the Bureau of Consumer
12 Financial Protection, in consultation with
13 the Secretary of Education, may promul-
14 gate rules for the application of postsec-
15 ondary education loan payments that—

16 “(I) implements the requirements
17 in this section;

18 “(II) minimizes the amount of
19 fees and interest incurred by the bor-
20 rower and the total loan amount paid
21 by the borrower;

22 “(III) minimizes delinquencies,
23 assignments to collection, and charge-
24 offs;

1 “(IV) requires servicers to apply
2 payments on the date received; and

3 “(V) allows the borrower to in-
4 struct the servicer to apply payments
5 in a manner preferred by the bor-
6 rower, including excess payments.

7 “(v) METHOD THAT BEST BENEFITS
8 BORROWER.—In promulgating the rules
9 under clause (iv), the Director of the Bu-
10 reau of Consumer Financial Protection
11 shall choose the application method that
12 best benefits the borrower and is compat-
13 ible with existing repayment options.

14 “(E) LATE FEES.—

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

20 “(I) On a per-loan basis when a
21 borrower has multiple postsecondary
22 education loans in a billing group.

23 “(II) In an amount greater than
24 4 percent of the amount of the pay-
25 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 “(F) REHABILITATION OF LOANS.—If a
22 borrower of a private education loan success-
23 fully and voluntarily makes 9 payments within
24 20 days of the due date during 10 consecutive
25 months of amounts owed on the private edu-

1 cation loan, or otherwise brings the private edu-
2 cation loan current after the loan is charged-
3 off, the loan shall be considered rehabilitated,
4 and the lender or servicer shall request that any
5 consumer reporting agency to which the charge-
6 off was reported remove the delinquency that
7 led to the charge-off and the charge-off from
8 the borrower's credit history.

9 “(G) BORROWER INQUIRIES.—

10 “(i) DUTY OF STUDENT LOAN
11 SERVICERS TO RESPOND TO BORROWER IN-
12 QUIRIES.—

13 “(I) NOTICE OF RECEIPT OF RE-
14 QUEST.—If a borrower of a postsec-
15 ondary education loan submits a
16 qualified written request to the stu-
17 dent loan servicer for information re-
18 lating to the student loan servicing of
19 the postsecondary education loan, the
20 student loan servicer shall provide a
21 written response acknowledging re-
22 ceipt of the qualified written request
23 within 5 business days unless any ac-
24 tion requested by the borrower is
25 taken within such period.

1 “(II) ACTION WITH RESPECT TO
2 INQUIRY.—Not later than 30 business
3 days after the receipt from a borrower
4 of a qualified written request under
5 subclause (I) and, if applicable, before
6 taking any action with respect to the
7 qualified written request of the bor-
8 rower, the student loan servicer
9 shall—

10 “(aa) make appropriate cor-
11 rections in the account of the
12 borrower, including the crediting
13 of any late fees, and transmit to
14 the borrower a written notifica-
15 tion of such correction (which
16 shall include the name and toll-
17 free or collect-call telephone num-
18 ber of a representative of the stu-
19 dent loan servicer who can pro-
20 vide assistance to the borrower);

21 “(bb) after conducting an
22 investigation, provide the bor-
23 rower with a written explanation
24 or clarification that includes—

1 “(AA) to the extent ap-
2 plicable, a statement of the
3 reasons for which the stu-
4 dent loan servicer believes
5 the account of the borrower
6 is correct as determined by
7 the student loan 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 student loan servicer who
15 can provide assistance to the
16 borrower; or

17 “(cc) after conducting an in-
18 vestigation, provide the borrower
19 with a written explanation or
20 clarification that includes—

21 “(AA) information re-
22 quested by the borrower or
23 explanation of why the infor-
24 mation requested is unavail-
25 able or cannot be obtained

1 by the student loan servicer;
2 and

3 “(BB) the name and
4 toll-free or collect-call tele-
5 phone number of an indi-
6 vidual employed by, or the
7 office or department of, the
8 student loan servicer who
9 can provide assistance to the
10 borrower.

11 “(III) LIMITED EXTENSION OF
12 RESPONSE TIME.—

13 “(aa) IN GENERAL.—There
14 may be 1 extension of the 30-day
15 period described in subclause (II)
16 of not more than 15 days if, be-
17 fore the end of such 30-day pe-
18 riod, the student loan servicer no-
19 tifies the borrower of the exten-
20 sion and the reasons for the
21 delay in responding.

22 “(bb) REPORTS TO BU-
23 REAU.—Each student loan
24 servicer shall, on an annual basis,
25 report to the Bureau the aggre-

1 gate number of extensions sought
2 by the student loan servicer
3 under item (aa).

4 “(ii) PROTECTION OF CREDIT INFOR-
5 MATION.—During the 60-day period begin-
6 ning on the date on which a student loan
7 servicer receives a qualified written request
8 from a borrower relating to a dispute re-
9 garding payments by the borrower, a stu-
10 dent loan servicer may not provide negative
11 credit information to any consumer report-
12 ing agency (as defined in section 603 of
13 the Fair Credit Reporting Act (15 U.S.C.
14 1681a)) relating to the subject of the
15 qualified written request or to such period,
16 including any information relating to a late
17 payment or payment owed by the borrower
18 on the borrower’s postsecondary education
19 loan.

20 “(H) SINGLE POINT OF CONTACT FOR
21 CERTAIN BORROWERS.—A student loan servicer
22 shall designate an office or other unit of the
23 student loan servicer to act as a point of con-
24 tact regarding postsecondary education loans
25 for—

1 “(i) a borrower who is not less than
2 60 days delinquent under the postsec-
3 ondary education loan;

4 “(ii) a borrower who seeks informa-
5 tion regarding, seeks to enter an agree-
6 ment for, or seeks to resolve an issue
7 under a repayment option that requires
8 subsequent submission of supporting docu-
9 mentation; and

10 “(iii) a borrower who seeks to modify
11 the terms of the repayment of the postsec-
12 ondary education loan because of hardship.

13 “(I) SERVICEMEMBERS, VETERANS, AND
14 POSTSECONDARY EDUCATION LOANS.—

15 “(i) SERVICEMEMBER AND VETERANS
16 LIAISON.—Each servicer shall designate an
17 employee 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 servicer shall maintain a toll-
3 free telephone number that shall—

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

7 “(II) be made available on the
8 primary internet website of the
9 servicer and on monthly billing state-
10 ments.

11 “(iii) PROHIBITION ON CHARGE OFFS
12 AND DEFAULT.—A lender or servicer may
13 not charge off or report a postsecondary
14 education loan as delinquent, assigned to
15 collection (internally or by referral to a
16 third party), in default, or charged-off to a
17 credit reporting agency if the borrower is
18 on active duty in the Armed Forces (as de-
19 fined in section 101(d)(1) of title 10,
20 United States Code) serving in a combat
21 zone (as designated by the President under
22 section 112(c) of the Internal Revenue
23 Code of 1986).

24 “(iv) ADDITIONAL LIAISONS.—The
25 Secretary shall determine additional enti-

1 ties with whom borrowers interact, includ-
2 ing guaranty agencies, that shall designate
3 an employee to act as the servicemember
4 and veterans liaison who is responsible for
5 answering inquiries from servicemembers
6 and veterans and is specially trained on
7 servicemembers and veteran benefits and
8 option under the Servicemembers Civil Re-
9 lief Act (50 U.S.C. App. 501 et seq.).

10 “(J) BORROWER’S LOAN HISTORY.—

11 “(i) IN GENERAL.—A servicer shall
12 make available through a secure website,
13 or in writing upon request, the loan history
14 of each borrower for each postsecondary
15 education loan, separately designating—

16 “(I) payment history;

17 “(II) loan history, including any
18 forbearances, deferrals, delinquencies,
19 assignment to collection, and charge
20 offs;

21 “(III) annual percentage rate
22 history; and

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

1 principal, capitalized interest, annual
2 percentage rate, including any cap,
3 loan term, and any contractual incen-
4 tives.

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

11 “(K) ERROR RESOLUTION.—The Director
12 of the Bureau of Consumer Financial Protec-
13 tion, in consultation with the Secretary of Edu-
14 cation, shall promulgate rules requiring
15 servicers to establish error resolution proce-
16 dures to allow borrowers to inquire about errors
17 related to their postsecondary education loans
18 and obtain timely resolution of such errors.

19 “(L) ADDITIONAL SERVICING STAND-
20 ARDS.—The Director of the Bureau of Con-
21 sumer Financial Protection, in consultation
22 with the Secretary of Education, may establish
23 additional servicing standards to reduce delin-
24 quencies, assignment to collections, defaults,
25 and charge-offs, and to ensure borrowers under-

1 stand their rights and obligations related to
2 their postsecondary education loans.

3 “(M) ARBITRATION.—

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

10 “(ii) PREDISPUTE ARBITRATION
11 AGREEMENTS.—No predispute arbitration
12 agreement shall be valid or enforceable by
13 a servicer, including as a third-party bene-
14 ficiary or by estoppel, if the agreement re-
15 quires arbitration of a dispute with respect
16 to a postsecondary education loan. This
17 subparagraph applies to predispute arbi-
18 tration agreements entered into before the
19 date of enactment of the Student Loan
20 Borrower Bill of Rights, as well as on and
21 after such date of enactment, if the viola-
22 tion that is the subject of the dispute oc-
23 curred on or after such date of enactment.

24 “(N) ENFORCEMENT.—The provisions of
25 this paragraph shall be enforced by the agencies

1 specified in subsections (a) through (d) of sec-
2 tion 108, in the manner set forth in that sec-
3 tion or under any other applicable authorities
4 available to such agencies by law.

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

10 “(P) CIVIL LIABILITY.—A servicer that
11 fails to comply with any requirement imposed
12 under this paragraph shall be deemed a creditor
13 that has failed to comply with a requirement
14 under this chapter for purposes of liability
15 under section 130 and such servicer shall be
16 subject to the liability provisions under such
17 section, including the provisions under para-
18 graphs (1), (2)(A)(i), (2)(B), and (3) of section
19 130(a).

20 “(Q) ELIGIBILITY FOR DISCHARGE.—The
21 Director of the Bureau of Consumer Financial
22 Protection, in consultation with the Secretary of
23 Education, shall promulgate rules requiring
24 lenders and servicers of loans described in para-
25 graph (13)(B)(ii) to—

1 “(i) identify and contact borrowers
2 who may be eligible for student loan dis-
3 charge by the Secretary;

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

8 “(iii) create a streamlined process for
9 eligible borrowers to apply for and receive
10 such discharge.”; and

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

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

16 (2) in section 130(a)—

17 (A) in paragraph (3), by striking
18 “128(e)(7)” and inserting “128(e)(10)”;

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

1 **SEC. 3. STUDENT LOAN INFORMATION BY ELIGIBLE LEND-**
2 **ERS.**

3 Section 433 of the Higher Education Act of 1965 (20
4 U.S.C. 1083) is amended—

5 (1) in subsection (b)—

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

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

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

11 “(14) a statement that—

12 “(A) the borrower may be entitled to 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 State
16 laws; and

17 “(B) a Servicemember and Veterans Liai-
18 son designated under section 128(e)(15)(I)(i) of
19 the Truth in Lending Act (15 U.S.C.
20 1638(e)(15)(I)(i)) is available to answer inquir-
21 ies about servicemember and veteran benefits,
22 including the toll-free telephone number to con-
23 tact the Liaison pursuant to such section.”; and

24 (2) in subsection (e)—

25 (A) in paragraph (2), by adding at the end
26 the following:

1 “(D) A statement that—

2 “(i) the borrower may be entitled to
3 servicemember and veteran benefits under
4 the Servicemembers Civil Relief Act (50
5 U.S.C. App. 501 et seq.) and other Fed-
6 eral or State laws; and

7 “(ii) a Servicemember and Veterans
8 Liaison designated under section
9 128(e)(15)(I)(i) of the Truth in Lending
10 Act (15 U.S.C. 1638(e)(15)(I)(i)) is avail-
11 able to answer inquiries about servicemem-
12 ber and veteran benefits, including the toll-
13 free telephone number to contact the Liai-
14 son pursuant to such section.”; and

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

17 “(F) A statement that—

18 “(i) the borrower may be entitled to
19 servicemember and veteran benefits under
20 the Servicemembers Civil Relief Act (50
21 U.S.C. App. 501 et seq.) and other Fed-
22 eral or State laws; and

23 “(ii) a Servicemember and Veterans
24 Liaison designated under section
25 128(e)(15)(I)(i) of the Truth in Lending

1 Act (15 U.S.C. 1638(e)(15)(I)(i)) is avail-
 2 able to answer inquiries about servicemem-
 3 ber and veteran benefits, including the toll-
 4 free telephone number to contact the Liai-
 5 son pursuant to such section.”.

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

7 (a) AMENDMENTS TO THE TRUTH IN LENDING
 8 ACT.—

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

12 (A) by striking paragraph (3) and insert-
 13 ing the following:

14 “(3) INSTITUTIONAL CERTIFICATION RE-
 15 QUIRED.—

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

23 “(i) the enrollment status of the stu-
 24 dent;

1 “(ii) the student’s cost of attendance
2 at the institution as determined by the in-
3 stitution under part F of title IV of the
4 Higher Education Act of 1965; and

5 “(iii) the difference between—

6 “(I) such cost of attendance; and

7 “(II) the student’s estimated fi-
8 nancial assistance, including such as-
9 sistance received under title IV of the
10 Higher Education Act of 1965 and
11 other financial assistance known to
12 the institution, as applicable.

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

23 “(i) notification of the institution’s re-
24 fusal to certify the request; or

1 “(ii) notification that the institution
2 has received the request for certification
3 and will need additional time to comply
4 with the certification request.

5 “(C) LOANS DISBURSED WITHOUT CER-
6 TIFICATION.—If a creditor issues funds without
7 obtaining a certification, as described in sub-
8 paragraph (B), such creditor shall report the
9 issuance of such funds in a manner determined
10 by the Director of the Bureau of Consumer Fi-
11 nancial Protection.”; and

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

13 “(16) PROVISION OF INFORMATION.—

14 “(A) PROVISION OF INFORMATION TO STU-
15 DENTS.—

16 “(i) LOAN STATEMENT.—A creditor
17 that issues any funds with respect to an
18 extension of credit described in this sub-
19 section shall send loan statements, where
20 such loan is to be used for a student, to
21 borrowers of such funds not less than once
22 every 3 months during the time that such
23 student is enrolled at an institution of
24 higher education.

1 “(ii) CONTENTS OF LOAN STATE-
2 MENT.—Each statement described in
3 clause (i) shall—

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

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

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

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

23 “(C) ANNUAL REPORT.—A creditor that
24 issues funds with respect to an extension of
25 credit described in this subsection shall prepare

1 and submit an annual report to the Bureau of
2 Consumer Financial Protection containing the
3 required information about private student
4 loans to be determined by the Bureau of Con-
5 sumer Financial Protection, in consultation
6 with the Secretary of Education.”.

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

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

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

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

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

19 (3) REGULATIONS.—Not later than 365 days
20 after the date of enactment of this Act, the Director
21 of the Bureau of Consumer Financial Protection
22 shall issue regulations in final form to implement
23 paragraphs (3) and (16) of section 128(e) of the
24 Truth in Lending Act (15 U.S.C. 1638(e)), as
25 amended by paragraph (1). Such regulations shall

1 become effective not later than 6 months after their
2 date of issuance.

3 (b) AMENDMENTS TO THE HIGHER EDUCATION ACT
4 OF 1965.—

5 (1) PROGRAM PARTICIPATION AGREEMENTS.—

6 Section 487(a) of the Higher Education Act of 1965
7 (20 U.S.C. 1094(a)) is amended by striking para-
8 graph (28) and inserting the following:

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

16 “(i) provide such certification to such pri-
17 vate educational lender—

18 “(I) that the student who initiated the
19 application for the private education loan,
20 or on whose behalf the application was ini-
21 tiated, is enrolled or is scheduled to enroll
22 at the institution;

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

1 “(III) of the difference between—

2 “(aa) the cost of attendance at
3 the institution; and

4 “(bb) the student’s estimated fi-
5 nancial assistance received under this
6 title and other assistance known to
7 the institution, as applicable;

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

12 “(iii) provide notice to the private edu-
13 cational lender of the institution’s refusal to
14 certify the private education loan under sub-
15 paragraph (D).

16 “(B) With respect to a certification request de-
17 scribed in subparagraph (A), and prior to providing
18 such certification under subparagraph (A)(i) or pro-
19 viding notice of the refusal to provide certification
20 under subparagraph (A)(iii), the institution shall—

21 “(i) determine whether the student who
22 initiated the application for the private edu-
23 cation loan, or on whose behalf the application
24 was initiated, has applied for and exhausted the
25 Federal financial assistance available to such

1 student under this title and inform the student
2 accordingly; and

3 “(ii) provide the borrower whose loan ap-
4 plication has prompted the certification request
5 by a private education lender, as described in
6 subparagraph (A)(i), with the following infor-
7 mation and disclosures:

8 “(I) The availability of, and the bor-
9 rower’s potential eligibility for, Federal fi-
10 nancial assistance under this title, includ-
11 ing disclosing the terms, conditions, inter-
12 est rates, and repayment options and pro-
13 grams of Federal student loans.

14 “(II) The borrower’s ability to select a
15 private educational lender of the bor-
16 rower’s choice.

17 “(III) The impact of a proposed pri-
18 vate education loan on the borrower’s po-
19 tential eligibility for other financial assist-
20 ance, including Federal financial assistance
21 under this title.

22 “(IV) The borrower’s right to accept
23 or reject a private education loan within
24 the 30-day period following a private edu-
25 cational lender’s approval of a borrower’s

1 application and about a borrower’s 3-day
2 right to cancel period.

3 “(C) For purposes of this paragraph, the terms
4 ‘private educational lender’ and ‘private education
5 loan’ have the meanings given such terms in section
6 140 of the Truth in Lending Act (15 U.S.C. 1650).

7 “(D)(i) An institution shall not provide a cer-
8 tification with respect to a private education loan
9 under this paragraph unless the private education
10 loan includes terms that provide—

11 “(I) the borrower alternative repayment
12 plans, including loan consolidation or refi-
13 nancing; and

14 “(II) that the liability to repay the loan
15 shall be cancelled upon the death or disability
16 of the borrower or co-borrower.

17 “(ii) In this paragraph, the term ‘disability’
18 means a permanent and total disability, as deter-
19 mined in accordance with the regulations of the Sec-
20 retary of Education, or a determination by the Sec-
21 retary of Veterans Affairs that the borrower is un-
22 employable due to a service-connected disability.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall take effect on the effective

1 date of the regulations described in subsection
2 (a)(3).

3 (3) PREFERRED LENDER ARRANGEMENT.—Sec-
4 tion 151(8)(A)(ii) of the Higher Education Act of
5 1965 (20 U.S.C. 1019(8)(A)(ii)) is amended by in-
6 serting “certifying,” after “promoting,”.

7 (c) REPORT.—Not later than 24 months after the
8 issuance of regulations under subsection (a)(3), the Direc-
9 tor of the Bureau of Consumer Financial Protection and
10 the Secretary of Education shall jointly submit to Con-
11 gress a report on the compliance of institutions of higher
12 education and private educational lenders with section
13 128(e)(3) of the Truth in Lending Act (15 U.S.C.
14 1638(e)), as amended by subsection (a), and section
15 487(a)(28) of the Higher Education Act of 1965 (20
16 U.S.C. 1094(a)), as amended by subsection (b). Such re-
17 port shall include information about the degree to which
18 specific institutions utilize certifications in effectively en-
19 couraging the exhaustion of Federal student loan eligi-
20 bility and lowering student private education loan debt.

21 **SEC. 5. MARKETING LIMITATION.**

22 Section 456 of the Higher Education Act of 1965 (20
23 U.S.C. 1087f) is amended by adding at the end the fol-
24 lowing:

1 “(c) LIMITATION ON CONTRACTS FOR THE SERV-
 2 ICING OF LOANS.—A servicer may not market to the bor-
 3 rower of a student loan made, insured, or guaranteed
 4 under this title which the servicer services, a financial
 5 product or service using data obtained through the serv-
 6 icing relationship, or otherwise during the servicing proc-
 7 ess.”.

8 **SEC. 6. SERVICER CHOICE.**

9 Section 456 of the Higher Education Act of 1965 (20
 10 U.S.C. 1087f), as amended by section 5, is further amend-
 11 ed by adding at the end the following:

12 “(d) SWITCHING SERVICERS.—The Secretary shall
 13 establish a program that allows a borrower of a loan made
 14 under this part after the date of enactment of the Student
 15 Loan Borrower Bill of Rights to switch from the assigned
 16 servicer of such loan to a new servicer based on a random
 17 reassignment by the Secretary.”.

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

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

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

23 “Not later than 2 years after the date of enactment
 24 of the Student Loan Borrower Bill of Rights, the Sec-
 25 retary shall establish a centralized point of access for all

1 borrowers of loans that are made, insured, or guaranteed
2 under this title that are in repayment, including a central
3 location for account information and payment processing
4 for such loan servicing, regardless of the specific
5 servicer.”.

6 **SEC. 8. REPORT ON STUDENT LOAN SERVICERS.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Director of the Bureau of Consumer Fi-
9 nancial Protection, in consultation with the Secretary of
10 Education, shall submit a report to the Committee on
11 Banking, Housing, and Urban Affairs of the Senate, the
12 Committee on Health, Education, Labor, and Pensions of
13 the Senate, the Committee on Financial Services of the
14 House of Representatives, and the Committee on Edu-
15 cation and the Workforce of the House of Representatives
16 on private and Federal student loan servicers, including—

17 (1) any legislative recommendations to improve
18 student loan servicing standards; and

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

○