

110TH CONGRESS
1ST SESSION

S. 511

To provide student borrowers with basic rights, including the right to timely information about their loans and the right to make fair and reasonable loan payments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2007

Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. KERRY, and Mr. LIEBERMAN)
introduced the following bill; which was read twice and referred to the
Committee on Health, Education, Labor, and Pensions

A BILL

To provide student borrowers with basic rights, including the right to timely information about their loans and the right to make fair and reasonable loan payments, 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 Borrower Bill
5 of Rights Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Postsecondary education is increasingly a
2 requirement for a high-paying job in the modern
3 economy; college graduates earn, on average,
4 \$1,000,000 more over their working lives than peo-
5 ple who stop their education after secondary school.

6 (2) As the cost of college increases and as need-
7 based grant aid stagnates, more and more students
8 go into debt to pursue higher education and better
9 economic opportunities.

10 (3) The amount students borrowed from Fed-
11 eral student loan programs increased by 76 percent
12 from academic year 1994–1995 to academic year
13 2004–2005, totaling \$54,000,000,000 in academic
14 year 2004–2005.

15 (4) The fastest growing source of financial aid
16 is private credit, increasing by 734 percent from
17 academic year 1994–1995 to academic year 2004–
18 2005, totaling \$14,000,000,000 in academic year
19 2004–2005.

20 (5) In academic year 2003–2004, 62 percent of
21 students who graduated with a baccalaureate degree
22 from a public college or university graduated with
23 debt, and their debt averaged \$15,500, and 73 per-
24 cent of students who graduated with a baccalaureate

1 degree from a private college or university graduated
 2 with debt, and their debt averaged \$19,400.

3 (6) Some student borrowers need additional
 4 timely, clear, and complete information about the
 5 terms and conditions of their loans, beyond the
 6 counseling and information currently provided.

7 (7) High-interest rates and high fees have
 8 caused the balance owed by some borrowers to bal-
 9 loon in short periods of time.

10 (8) Income-contingent repayment plans are un-
 11 available to many borrowers who, as a result, are re-
 12 quired to make unaffordable high monthly payments.

13 (9) The prospect of high levels of debt, burden-
 14 some monthly payments, and confusion about rights
 15 and repayment options deters people from taking out
 16 loans and pursuing higher education.

17 (10) There is a need to guarantee student bor-
 18 rowers that they will have access to timely informa-
 19 tion about student loans and that their loan repay-
 20 ments will be affordable.

21 **SEC. 3. DEFINITION OF LENDER.**

22 In this Act, the term “lender” means any public or
 23 private entity that—

1 (1) lends funds to an individual to enable such
2 individual to attend an institution of higher edu-
3 cation; or

4 (2) insures, guarantees, or collects on a loan
5 made to an individual to enable such individual to
6 attend an institution of higher education.

7 **SEC. 4. A RIGHT TO SHOP IN A FREE MARKETPLACE.**

8 (a) SENSE OF THE SENATE.—It is the sense of the
9 Senate that the Department of Education should vigor-
10 ously enforce rules requiring lenders to complete lender
11 verification certificates in a timely manner for borrowers
12 seeking to consolidate loans.

13 (b) ACCURATE AND COMPREHENSIVE REPORTING TO
14 CREDIT BUREAUS.—The Higher Education Act of 1965
15 (20 U.S.C. 1001 et seq.) is amended—

16 (1) in section 430A(a)—

17 (A) by striking “agreements with credit
18 bureau organizations” and inserting “an agree-
19 ment with each national credit bureau organiza-
20 tion (as described in section 603(p) of the Fair
21 Credit Reporting Act)”;

22 (B) in paragraph (2), by striking “and”
23 after the semicolon;

24 (C) by redesignating paragraph (3) as
25 paragraph (4);

1 (D) in paragraph (4), as redesignated by
 2 subparagraph (C), by striking the period at the
 3 end and inserting “; and”;

4 (E) by inserting after paragraph (2) the
 5 following:

6 “(3) of any on time payments made for such
 7 loan;”; and

8 (F) by inserting at the end the following:

9 “(5) that such loan is a student loan.”; and
 10 (2) in section 463(c)—

11 (A) in paragraph (1), by striking “coopera-
 12 tive agreements with credit bureau organiza-
 13 tions” and inserting “a cooperative agreement
 14 with each national credit bureau organization
 15 (as described in section 603(p) of the Fair
 16 Credit Reporting Act)”; and

17 (B) in paragraph (2)—

18 (i) in subparagraph (B), by striking
 19 “and” after the semicolon;

20 (ii) in subparagraph (C), by striking
 21 the period at the end and inserting “;
 22 and”; and

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

1 “(D) any on time payments made for such
2 loan; and

3 “(E) such loan as a student loan.”.

4 (c) A RIGHT TO RECONSOLIDATE LOANS.—

5 (1) PART B.—Section 428C(a)(3)(B) of the
6 Higher Education Act of 1965 (20 U.S.C. 1078–
7 3(a)(3)(B)) is amended to read as follows:

8 “(B)(i) Except as provided in clause (ii), an in-
9 dividual who has received a consolidation loan under
10 this section, or the consolidation lender, shall pay a
11 fee of 1 percent of the balance owed on the sum of
12 such loans to be consolidated to the Department to
13 obtain a subsequent consolidation loan under this
14 section.

15 “(ii) An individual who has received a consoli-
16 dation loan under this section may obtain a subse-
17 quent consolidation loan under this section for no
18 fee if such individual was eligible to obtain a subse-
19 quent consolidation loan pursuant to this subpara-
20 graph on the day before the date of enactment of
21 the Student Borrower Bill of Rights Act of 2007.”.

22 (2) PART D.—Section 455(g) of the Higher
23 Education Act of 1965 (20 U.S.C. 1087e(g)) is
24 amended—

1 (A) by striking “A borrower” and inserting
 2 the following:

3 “(1) IN GENERAL.—A borrower”; and

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

5 “(2) REFINANCING AUTHORITY.—Notwith-
 6 standing any other provision of this part, a borrower
 7 may refinance a Federal Direct Consolidation
 8 Loan.”.

9 **SEC. 5. A RIGHT TO TIMELY INFORMATION ABOUT LOANS.**

10 (a) IN GENERAL.—Title IV of the Higher Education
 11 Act of 1965 (20 U.S.C. 1070 et seq.) is amended by add-
 12 ing at the end the following:

13 **“PART I—STUDENT BORROWER BILL OF RIGHTS**

14 **“SEC. 499. DEFINITIONS.**

15 “In this part:

16 “(1) FEDERAL STUDENT LOAN.—The term
 17 ‘Federal student loan’ means a loan made, insured,
 18 or guaranteed under this title (except loans made to
 19 parents under section 428B or under the Federal
 20 Direct PLUS Loan program).

21 “(2) LENDER.—The term ‘lender’ means any
 22 public or private entity that—

23 “(A) lends funds to an individual to enable
 24 such individual to attend an institution of high-
 25 er education; or

1 “(B) insures, guarantees, or collects on a
 2 loan made to an individual to enable such indi-
 3 vidual to attend an institution of higher edu-
 4 cation.

5 **“SEC. 499A. A RIGHT TO TIMELY INFORMATION ABOUT**
 6 **LOANS.**

7 “(a) REGULAR BILL PROVIDING PERTINENT INFOR-
 8 MATION ABOUT A LOAN.—A lender of a Federal student
 9 loan shall provide the borrower of such loan a bill each
 10 month or, in the case of a loan payable less frequently
 11 than monthly, a bill that corresponds to each payment in-
 12 stallment time period, including a clear and conspicuous
 13 notice of—

14 “(1) the borrower’s principal borrowed;
 15 “(2) the borrower’s current balance;
 16 “(3) the interest level on such loan;
 17 “(4) the amount the borrower has paid in inter-
 18 est;

19 “(5) the amount of additional interest payments
 20 the borrower is expected to pay over the life of the
 21 loan;

22 “(6) the total amount the borrower has paid for
 23 the loan, including the amount the borrower has
 24 paid in interest, the amount the borrower has paid

1 in fees, and the amount the borrower has paid
2 against the balance;

3 “(7) a description of each fee the borrower has
4 been charged for the current payment period;

5 “(8) the applicable monthly payment amount
6 set by the Secretary under section 499B for such
7 borrower and the amount such borrower would owe
8 each month according to the borrower’s repayment
9 plan absent the provisions of section 499B, or, in
10 the case of a loan payable less frequently than
11 monthly, the amount that corresponds to the pay-
12 ment installment time period taking into consider-
13 ation the applicable monthly payment amount set by
14 the Secretary under section 499B for such borrower
15 and the amount such borrower would owe that cor-
16 responds to the payment installment time period ac-
17 cording to the borrower’s repayment plan absent the
18 provisions of section 499B;

19 “(9) the date by which the borrower needs to
20 make the payment described in paragraph (8) to
21 avoid additional fees;

22 “(10) the amount of such payment that will be
23 put towards interest, the balance, and any fees;

24 “(11) the lender’s address and toll-free phone
25 number for payment purposes;

1 “(12) the lender’s address and toll-free number
2 for billing error purposes; and

3 “(13) any change in the terms and conditions
4 of the loan.

5 “(b) INFORMATION PROVIDED FIVE MONTHS AFTER
6 CEASING TO BE AT LEAST A HALF-TIME STUDENT.—
7 A lender of a Federal student loan shall provide to the
8 borrower of such loan, on the date that is 5 months after
9 the borrower has ceased to be at least a half-time student
10 at the institution of higher education for which the loan
11 was made, who requests it, and make readily available on
12 the Internet, a clear and conspicuous notice of not less
13 than the following information:

14 “(1) The conditions under which a borrower
15 could be charged any fee, and the amount of such
16 fee.

17 “(2) The conditions under which a loan would
18 default and the consequences of default.

19 “(3) The borrower’s rights and options, includ-
20 ing repayment options, deferments, forbearances,
21 and discharge rights to which the borrower may be
22 entitled.

23 “(4) Legitimate resources, including nonprofit
24 organizations, advocates, and counselors (including
25 the Office of the Ombudsman at the Department),

1 where borrowers can receive advice and assistance, if
2 such resources exist.

3 “(5) Information about how a borrower can ap-
4 peal to the Department a decision made by a lender
5 about their loan.

6 “(c) INFORMATION PROVIDED DURING DELIN-
7 QUENCY.—

8 “(1) SENSE OF THE SENATE.—It is the sense
9 of the Senate that the Secretary should vigorously
10 enforce rules requiring that a lender of a Federal
11 student loan provide a borrower in delinquency in-
12 formation about such borrower’s rights and options,
13 means of avoiding default, and the consequences of
14 default, at such a time and in such manner as is
15 most useful for such borrower.

16 “(2) ADDITIONAL INFORMATION.—In addition
17 to any other information required under law, a lend-
18 er of a Federal student loan shall provide a borrower
19 in delinquency with a clear and conspicuous notice
20 of the date on which the loan will default if no pay-
21 ment is made, the minimum payment that must be
22 made to avoid default, discharge rights to which the
23 borrower may be entitled, legitimate resources, in-
24 cluding nonprofit organizations, advocates, and
25 counselors (including the Office of the Ombudsman

1 at the Department), where borrowers can receive ad-
 2 vice and assistance, if such resources exist, and in-
 3 formation about how a borrower can appeal to the
 4 Department a decision made by a lender about their
 5 loan.

6 “(d) INFORMATION PROVIDED DURING DEFAULT.—

7 A lender of a Federal student loan shall provide a bor-
 8 rower in default, on not less than 2 separate occasions,
 9 with a clear and conspicuous notice of not less than the
 10 following information:

11 “(1) The options available to the borrower to
 12 get out of default.

13 “(2) The cost and conditions of each option.

14 “(3) Information about how a borrower can ap-
 15 peal to the Department a decision made by a lender
 16 about their loan.

17 “(e) SENSE OF THE SENATE.—It is the sense of the
 18 Senate that the Department should—

19 “(1) write and distribute a training manual for
 20 organizations, advocates, and counselors who help
 21 people who are having problems repaying Federal
 22 student loans, describing—

23 “(A) the rights of such borrowers; and

24 “(B) the Department’s policies for dealing
 25 with particular programs; and

1 “(2) provide to such organizations, advocates,
2 and counselors technical assistance where needed.”.

3 (b) INFORMATION PROVIDED DURING THE TRANS-
4 FER OF A LOAN TO A NEW SERVICER.—Section
5 428(b)(2)(F) of the Higher Education Act of 1965 (20
6 U.S.C. 1078(b)(2)(F)) is amended—

7 (1) in clause (i)—

8 (A) in subclause (III), by striking “and”
9 after the semicolon;

10 (B) in subclause (IV), by striking “and”
11 after the semicolon; and

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

13 “(V) the effective date of the
14 transfer;

15 “(VI) the date the current
16 servicer will stop accepting payments;

17 “(VII) the date at which the new
18 servicer will begin accepting pay-
19 ments; and

20 “(VIII) that the transfer does
21 not affect any term or condition of
22 their loan documents other than those
23 terms directly related to the servicing
24 of the loan;”;

1 (2) in clause (ii)(II), by striking the comma at
2 the end and inserting “; and”; and

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

4 “(iii) the transferee will be required,
5 during the 60-day period beginning on the
6 effective date of the transfer, to not treat
7 a payment as late if the borrower mistak-
8 only sends such payment to the transferor
9 instead of to the transferee and the pay-
10 ment is otherwise on time,”.

11 (c) INFORMATION PROVIDED DURING CONSOLIDA-
12 TION.—Section 428C(b)(1) of the Higher Education Act
13 of 1965 (20 U.S.C. 1078–3(b)(1)) is amended—

14 (1) in subparagraph (E), by striking “and”
15 after the semicolon;

16 (2) by redesignating subparagraph (F) as sub-
17 paragraph (G); and

18 (3) by inserting after subparagraph (E) the fol-
19 lowing:

20 “(F) that the lender of the consolidation
21 loan shall, upon application for such loan, pro-
22 vide the borrower with a clear and conspicuous
23 notice of not less than the following informa-
24 tion:

1 “(i) the effects of consolidation on
2 total interest to be paid, fees to be paid,
3 and length of repayment, relative to the
4 borrower’s currently scheduled total inter-
5 est to be paid, fees to be paid, and length
6 of repayment at the borrower’s current in-
7 terest rate;

8 “(ii) the effects of consolidation on a
9 borrower’s underlying loan benefits, includ-
10 ing loan forgiveness, cancellation,
11 deferment, and reduced interest rates on
12 those underlying loans;

13 “(iii) the ability of the borrower to
14 prepay the loan, pay on a shorter schedule,
15 and to change repayment plans;

16 “(iv) that borrower benefit programs
17 may vary among different loan holders,
18 and a description of how the borrower ben-
19 efits may vary among different loan hold-
20 ers;

21 “(v) the tax benefits for which bor-
22 rowers may be eligible;

23 “(vi) the consequences of default; and

1 “(vii) that by making the application
 2 the applicant is not obligated to agree to
 3 take the consolidation loan; and”.

4 (d) INFORMATION PROVIDED DURING CONSOLIDA-
 5 TION OR RECONSOLIDATION OF A FEDERAL STUDENT
 6 LOAN WITH A PRIVATE LOAN.—A lender shall, upon ap-
 7 plication for a consolidation or reconsolidation loan of one
 8 or more loans made, insured, or guaranteed under part
 9 B, part D, or part E of title IV of the Higher Education
 10 Act of 1965 (20 U.S.C. 1071, 1087a, 1087aa) with one
 11 or more private loans, provide the borrower with a clear
 12 and conspicuous notice of not less than the following infor-
 13 mation:

14 (1) That the consolidation or reconsolidation
 15 loan would be a private loan, not a Federal loan.

16 (2) A description of the benefits and protections
 17 for the loan made, insured, or guaranteed under
 18 part B, part D, or part E that the borrower would
 19 lose by consolidating such loan with a private loan.

20 (3) That the lender may be eligible to consoli-
 21 date two or more loans made, insured, or guaranteed
 22 under part B, part D, or part E within the Federal
 23 loan program.

1 **SEC. 6. A RIGHT TO MAKE AFFORDABLE LOAN PAYMENTS.**

2 (a) AFFORDABLE LOAN PAYMENTS.—Part I of title
3 IV of the Higher Education Act of 1965, as added by sec-
4 tion 5, is amended by adding at the end the following:

5 **“SEC. 499B. A RIGHT TO MAKE AFFORDABLE LOAN PAY-**
6 **MENTS.**

7 “(a) LIMIT ON MONTHLY PAYMENT AMOUNTS TO AN
8 AFFORDABLE LEVEL.—

9 “(1) IN GENERAL.—

10 “(A) LIMITATION.—

11 “(i) IN GENERAL.—With respect to
12 Federal student loans that are made, in-
13 sured, or guaranteed after the date of en-
14 actment of this section, the Secretary shall
15 limit the total monthly payment amount
16 for all of such loans of a student borrower
17 to not more than the amount determined
18 pursuant to subparagraph (B), except as
19 provided in subsection (b)(3).

20 “(ii) COMMENCEMENT.—The limit on
21 the monthly payment amount described in
22 clause (i) shall begin the day after 1 year
23 after the date the student ceases to carry
24 at least one-half the normal full-time aca-
25 demic workload (as determined by the in-
26 stitution).

1 “(B) FORMULA AMOUNT.—

2 “(i) IN GENERAL.—The amount re-
 3 ferred to in subparagraph (A) shall be the
 4 same amount for each month of a year.
 5 Such amount shall be an amount that is
 6 the quotient of the sum of 10 percent of
 7 the borrower’s annual adjusted gross in-
 8 come between 100 percent and 200 percent
 9 of the poverty line for the previous year
 10 and 20 percent of the borrower’s annual
 11 adjusted gross income above 200 percent
 12 of the poverty line for the previous year di-
 13 vided by 12.

14 “(ii) POVERTY LINE.—In this sub-
 15 paragraph, the term ‘poverty line’ means
 16 the poverty line described in section 673 of
 17 the Community Services Block Grant Act
 18 (42 U.S.C. 9902), applicable to a family of
 19 the size involved.

20 “(2) PROVISION OF INFORMATION TO THE SEC-
 21 RETARY.—

22 “(A) IN GENERAL.—The limit on the
 23 monthly payment amount set by the Secretary
 24 under paragraph (1) shall apply only if a bor-

1 rower provides the Secretary, in such form and
2 at such time—

3 “(i) such information as the Secretary
4 shall require to determine the monthly pay-
5 ment amount that is applicable for such
6 borrower; and

7 “(ii) certification that the borrower is
8 employed full time or is actively seeking
9 full-time employment.

10 “(B) UPDATE TO INFORMATION.—The
11 Secretary shall require a borrower to—

12 “(i) provide the information required
13 under subparagraph (A)(i) annually for the
14 term of the loan of such borrower; or

15 “(ii) during each year for the term of
16 the loan of such borrower, authorize the
17 Secretary to obtain the information re-
18 quired under subparagraph (A)(i) from the
19 Internal Revenue Service for such year.

20 “(3) CONTINUOUS UPDATE.—Upon receiving
21 information under paragraph (2)(B), the Secretary
22 shall revise the limit on the monthly payment
23 amount for such borrower under paragraph (1), as
24 necessary.

1 “(4) APPLICABILITY TO ALL REPAYMENT
2 PLANS.—Regardless of which repayment plan a bor-
3 rower of a loan selects under this title, the limit on
4 the monthly payment amount set by the Secretary
5 under paragraph (1) shall apply to the monthly re-
6 payment amount applicable for such repayment plan.

7 “(5) NO FEES OR CHARGES.—Notwithstanding
8 any other term or condition of Federal student loans
9 of a borrower that are made, insured, or guaranteed
10 after the date of enactment of this section, if the
11 borrower pays the maximum monthly payment
12 amount that is applicable for the borrower for such
13 loans, as determined under this section, on time ac-
14 cording to the terms and conditions of such loans,
15 such borrower may not be charged any late fee, un-
16 derpayment fee, or finance charge for such loans for
17 such month.

18 “(6) SUBSIDIZED LOANS.—In the case of a
19 Federal student loan made, insured, or guaranteed
20 after the date of enactment of this section for which
21 an interest subsidy is paid under section 428(a), if
22 the amount owed each month in interest payments
23 for such loan exceeds the applicable amount for such
24 borrower as determined under this section, and, at
25 the discretion of the Secretary, if the borrower pays

1 such applicable amount, the Federal Government
2 shall pay the difference between such amount owed
3 in interest payments and such amount that has been
4 determined is applicable.

5 “(b) STUDY.—

6 “(1) IN GENERAL.—The Secretary shall con-
7 duct a study to determine what additional protec-
8 tions beyond those described in subsection (a) are
9 necessary, if any, to ensure that monthly payment
10 amounts for student borrowers of different incomes
11 and with different costs of living are affordable.

12 “(2) CONTENT OF STUDY.—The study under
13 paragraph (1) shall—

14 “(A) consider the payments required of
15 student borrowers in other countries, including
16 the United Kingdom, Australia, and New Zea-
17 land, and compare such payments to the pay-
18 ments required of student borrowers in the
19 United States; and

20 “(B) be completed and submitted to the
21 appropriate committees of Congress not later
22 than 12 months after the date of enactment of
23 this section.

24 “(3) ADDITIONAL LIMITS ON MONTHLY REPAY-
25 MENTS.—If the Secretary determines in the study

1 under paragraph (1) that additional protections are
2 necessary to ensure that monthly payment amounts
3 of student borrowers of Federal student loans made,
4 insured, or guaranteed after the date of enactment
5 of this section are affordable, the Secretary may es-
6 tablish rules based on such study that limits the
7 monthly payment amount for a student borrower to
8 a level that is affordable for such borrower.

9 “(c) NOTIFICATION OF RIGHT TO MAKE PAYMENTS
10 OF MORE THAN MINIMUM.—Notwithstanding any other
11 provision of this section, a borrower whose applicable
12 monthly payment amount set by the Secretary under this
13 section is less than the amount such borrower would owe
14 each month according to the borrower’s repayment plan
15 absent the provisions of this section—

16 “(1) shall be notified of the amount the bor-
17 rower would owe each month according to the bor-
18 rower’s repayment plan absent the provisions of this
19 section; and

20 “(2) may pay the amount described in para-
21 graph (1) or another amount that is greater than
22 the applicable monthly payment amount set by the
23 Secretary under this section.”.

1 (b) INCOME CONTINGENT REPAYMENT.—Section
 2 455(e) of the Higher Education Act of 1965 (20 U.S.C.
 3 1087e(e)) is amended by adding at the end the following:

4 “(7) TAX BURDEN.—The balance due on a loan
 5 made under this part at the end of the maximum re-
 6 payment period is exempted from the definition of
 7 income for the purpose of taxes.”.

8 (c) DISCHARGE RIGHTS IN CASES OF SEVERE
 9 NEED.—

10 (1) DISCHARGE AND CANCELLATION RIGHTS IN
 11 CASES OF DISABILITY.—

12 (A) AMENDMENTS.—

13 (i) FFEL AND DIRECT LOANS.—Sec-
 14 tion 437(a) of the Higher Education Act of
 15 1965 (20 U.S.C. 1087(a)) is amended by
 16 striking “or becomes permanently and to-
 17 tally disabled (as determined in accordance
 18 with regulations of the Secretary)” and in-
 19 serting “or is unable to engage in any sub-
 20 stantial gainful activity by reason of any
 21 medically determinable physical or mental
 22 impairment that can be expected to result
 23 in death or has lasted, or can be expected
 24 to last, for a continuous period of not less
 25 than 60 months”.

1 (ii) PERKINS.—Section 464(c)(1)(F)
 2 of the Higher Education Act of 1965 (20
 3 U.S.C. 1087dd(c)(1)(F)) is amended by
 4 striking “or if he” and all that follows
 5 through the semicolon and inserting “or if
 6 the borrower is unable to engage in any
 7 substantial gainful activity by reason of
 8 any medically determinable physical or
 9 mental impairment that can be expected to
 10 result in death or has lasted, or can be ex-
 11 pected to last, for a continuous period of
 12 not less than 60 months;”.

13 (B) SENSE OF THE SENATE.—It is the
 14 Sense of the Senate that the Department of
 15 Education should continue to administer the
 16 discharge and cancellation right provisions of
 17 the Higher Education Act of 1965 amended in
 18 subparagraph (A) in such a way as to prevent
 19 fraud and abuse.

20 (2) DISCHARGE RIGHTS IN CASES OF BANK-
 21 RUPTCY.—

22 (A) SENSE OF THE SENATE.—It is the
 23 Sense of the Senate that the Bankruptcy Abuse
 24 Prevention and Consumer Protection Act of
 25 2005 (Public Law 109–8) affords sufficient

1 protections to prevent fraud and abuse in the
2 carefully regulated discharge of student loans in
3 bankruptcy.

4 (B) AMENDMENT.—Section 523(a)(8) of
5 title 11, United States Code, is amended to
6 read as follows:

7 “(8) unless—

8 “(A) excepting such debt from discharge
9 under this paragraph would impose an undue
10 hardship on the debtor and the debtor’s de-
11 pendents, for a debt that does not meet the re-
12 quirements of subparagraph (B) and that is—

13 “(i) an educational benefit overpay-
14 ment or loan made, insured, or guaranteed
15 by a governmental unit, or made under
16 any program funded in whole or in part by
17 a governmental unit or nonprofit institu-
18 tion;

19 “(ii) an obligation to repay funds re-
20 ceived as an educational benefit, scholar-
21 ship, or stipend; or

22 “(iii) an educational loan that is a
23 qualified education loan, as defined in sec-
24 tion 221(d)(1) of the Internal Revenue

1 Code of 1986, incurred by a debtor who is
 2 an individual; or

3 “(B) such debt is for an overpayment,
 4 loan, obligation, or qualified education loan de-
 5 scribed in clause (i), (ii) or (iii) of subpara-
 6 graph (A) that—

7 “(i) was made, entered into, or in-
 8 curred after the date of enactment of the
 9 Student Borrower Bill of Rights Act of
 10 2007; and

11 “(ii) first became due more than 7
 12 years (exclusive of any applicable suspen-
 13 sion of the repayment period) before the
 14 date of the filing of the petition;”.

15 **SEC. 7. A RIGHT FOR INTEREST RATES AND FEES TO BE**
 16 **REASONABLE.**

17 (a) IN GENERAL.—Part I of title IV of the Higher
 18 Education Act of 1965, as added by section 5 and amend-
 19 ed by section 6, is further amended by adding at the end
 20 the following:

21 **“SEC. 499C. A RIGHT FOR INTEREST RATES AND FEES TO**
 22 **BE REASONABLE.**

23 “(a) IN GENERAL.—The Secretary shall conduct a
 24 study of the interest rates and fees that are charged of
 25 borrowers of private student loans, including—

1 “(1) the conditions under which the interest
2 rate charged of such a borrower is raised or lowered,
3 including the conditions under which the interest
4 rate is raised on delinquent payments, and the
5 amount and frequency of such interest rate changes;

6 “(2) the conditions under which fees are
7 charged of such a borrower and frequency of such
8 fees, including fees that are charged as a condition
9 of taking a deferment or forbearance, and the
10 amount and frequency of such fees;

11 “(3) identifying such practices as described in
12 paragraphs (1) and (2) that are exploitative or un-
13 reasonable; and

14 “(4) determining what remedies exist for such
15 practices identified in paragraph (3).

16 “(b) MAXIMUM COLLECTION FEES.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of this title, the fee charged to a borrower
19 for collecting on a defaulted Federal student loan
20 shall not exceed the lesser of the expenses incurred
21 in collecting on such loan or the amount calculated
22 for such loan based on the following:

23 “(A) In the case of a defaulted loan that
24 is paid off through consolidation by the bor-

1 rower under this title, the amount that is 7.5
2 percent of the balance of such loan.

3 “(B) In the case of a defaulted loan reha-
4 bilitated under part D or pursuant to section
5 428F(a)(1)(A), the amount that is 13.5 percent
6 of the balance of such loan.

7 “(C) In the case of a defaulted loan col-
8 lected under part D or part B and not de-
9 scribed in subparagraph (A) or (B), the amount
10 that is 18 percent of the balance of such loan.

11 “(2) ITEMIZED LIST OF EXPENSES.—An entity
12 that charges a borrower for collecting on a defaulted
13 Federal student loan shall provide such borrower an
14 itemized list of any expenses incurred in collecting
15 on such loan.

16 “(c) CAP ON TOTAL CHARGES.—

17 “(1) IN GENERAL.—The Department shall set a
18 cap on the maximum total amount that can be
19 charged of a borrower on a Federal student loan, in-
20 cluding all interest and fees, as a percentage of the
21 original loan balance, over a period of 10 years, 15
22 years, and 20 years.

23 “(2) LEVEL OF CAP.—The cap set under para-
24 graph (1) shall be set—

1 “(A) at the minimum level beyond which
 2 additional amount charged on a loan is unrea-
 3 sonable or exploitative; and

4 “(B) for each time period, at a level that
 5 is higher than the amount the borrower, who
 6 makes regularly scheduled payments in accord-
 7 ance with a standard repayment plan, currently
 8 pays over such time period.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) LOANS PAID OFF THROUGH CONSOLIDA-
 11 TION.—Section 428(c)(6)(B) of the Higher Edu-
 12 cation Act of 1965 (20 U.S.C. 1078(c)(6)(B)) is
 13 amended—

14 (A) by striking clause (i) and inserting the
 15 following:

16 “(i) on or after October 1, 2007, not
 17 charge the borrower collection costs in excess of
 18 the amount provided in section 499C(b)(1)(A);
 19 and”; and

20 (B) in clause (ii), by striking “clause
 21 (i)(I)” and inserting “clause (i)”.

22 (2) REHABILITATED LOANS.—Section
 23 428F(a)(1)(C) of the Higher Education Act of 1965
 24 (20 U.S.C. 1078–6(a)(1)(C)) is amended by striking
 25 “not to exceed” and all that follows through the pe-

1 riod and inserting “not to exceed the amount pro-
 2 vided in section 499C(b)(1)(B).”.

3 **SEC. 8. A RIGHT TO NOT BE EXPLOITED.**

4 Part I of title IV of the Higher Education Act of
 5 1965, as added by section 5 and amended by sections 6
 6 and 7, is further amended by adding at the end the fol-
 7 lowing:

8 **“SEC. 499D. A RIGHT TO NOT BE EXPLOITED.**

9 “(a) PUBLICATION OF JOB PLACEMENT INFORMA-
 10 TION.—

11 “(1) IN GENERAL.—Each institution of higher
 12 education (as defined in section 102) that enrolls a
 13 student receiving assistance under this Act and that
 14 is determined by the Secretary, in accordance with
 15 paragraph (2), to be a disclosure institution, shall
 16 make publicly available and include in institution
 17 materials (including applications for admission to
 18 the institution) a clear and conspicuous notice of
 19 group level job placement information for each of
 20 the past 5 years of graduates (or, if the institution
 21 has not been in operation for 5 years, for as long
 22 as the institution has been in operation), including
 23 not less than the following information:

1 “(A) The percentage of students entering
2 the institution who graduated within 150 per-
3 cent of their expected graduation date.

4 “(B) The percentage of graduates em-
5 ployed within 6 months of graduating.

6 “(C) The percentage of graduates em-
7 ployed in the field that the graduates studied at
8 the institution.

9 “(D) The median annual earnings of those
10 graduates who are employed.

11 “(E) The percentage of former students of
12 the institution who took out a loan to attend
13 the institution who defaulted on such loan at
14 least once after leaving the institution.

15 “(2) DISCLOSURE INSTITUTION.—In deter-
16 mining whether an institution is a disclosure institu-
17 tion, the Secretary primarily shall consider whether
18 the institution makes claims relating to the employ-
19 ment prospects of the graduates of the institution.
20 In addition, the Secretary shall consider each of the
21 following criteria as a supplementary factor in deter-
22 mining whether an institution is a disclosure institu-
23 tion with respect to a particular year:

24 “(A) More than 75 percent of the institu-
25 tion’s revenue for such year is loan volume.

1 “(B) Fewer than 50 percent of the stu-
 2 dents enrolled in the institution the previous
 3 year, who did not graduate from such institu-
 4 tion in such previous year, are still enrolled in
 5 the institution.

6 “(C) More than 10 percent of the students
 7 who have taken out loans to attend the institu-
 8 tion have defaulted on such loans at least once
 9 after leaving the institution.

10 “(3) RECORDS.—Each institution of higher
 11 education (as defined in section 102) that enrolls a
 12 student receiving assistance under this Act and that
 13 is determined by the Secretary, in accordance with
 14 paragraph (2), to be a disclosure institution, shall
 15 keep, for a period of 5 years, the records that sub-
 16 stantiate the information the institution is required
 17 to publicize under paragraph (1).

18 “(b) SENSE OF THE SENATE.—It is the sense of the
 19 Senate that the Secretary should enforce the rights of bor-
 20 rowers of private student loans and Federal student loans
 21 to raise claims and defenses related to the actions of for-
 22 profit institutions of higher education against lenders from
 23 which the borrowers borrowed money to attend such insti-
 24 tutions, including the Federal Trade Commission Rule.

25 “(c) APPEAL TO THE SECRETARY.—

1 “(1) IN GENERAL.—

2 “(A) IN GENERAL.—Any borrower of a
3 Federal student loan who has suffered an eco-
4 nomic loss as a result of a violation of the bor-
5 rower’s rights under this title shall have the
6 right to appeal such action to the Secretary.

7 “(B) RIGHTS OF BORROWER.—For the
8 purpose of this subsection, the rights of a bor-
9 rower described in subparagraph (A) are those
10 rights involved in the solicitation for, disburse-
11 ment of, repayment of (including rights to ter-
12 minate or suspend repayment), or collection of
13 a Federal student loan, including—

14 “(i) such rights described in this part
15 and under the Student Borrower Bill of
16 Rights Act of 2007 and the amendments
17 made by such Act; and

18 “(ii) borrower rights under the fol-
19 lowing sections of this Act: 427, 428,
20 428C, 428F, 428J, 428K, 430A, 433, 437,
21 438, 463, 463A, 464, 465, 484, 484B, 485
22 (except subsections (f) and (g) of section
23 485), and 488A.

24 “(2) NOTIFICATION.—Not less than 30 days be-
25 fore making an appeal under this subsection, the

1 borrower shall jointly notify the Secretary and the
 2 party whose action the borrower wishes to appeal
 3 (referred to in this subsection as the ‘respondent’)
 4 that the borrower intends to make an appeal, the ac-
 5 tion that the borrower intends to appeal, and the
 6 economic loss that the borrower suffered as a result
 7 of the violation.

8 “(3) SETTLEMENT.—

9 “(A) IN GENERAL.—After the notification
 10 under paragraph (2), the borrower and the re-
 11 spondent shall make a good faith effort to settle
 12 the dispute. If no settlement is reached or if the
 13 respondent fails to respond to the borrower’s
 14 notice within 30 days of the borrower providing
 15 such notice, the borrower may appeal the appli-
 16 cable action to the Secretary, which shall adju-
 17 dicate the borrower’s claim in a fair, impartial,
 18 and timely manner. In so doing, the Secretary
 19 may, if it should choose, develop a policy by
 20 which borrowers who make appeals work with
 21 the office of the Ombudsman or another rel-
 22 evant office within the Department to facilitate
 23 dispute resolution before providing a formal
 24 hearing. Whether or not the Secretary develops
 25 such a policy, the Secretary shall provide a for-

1 mal hearing of the borrower's appeal within 60
2 days of the start of the appeal, unless the Sec-
3 retary determines that there is no basis for
4 such a hearing or if the borrower making the
5 appeal provides written consent to waive the
6 borrower's right to a hearing or to delay or
7 withdraw the appeal.

8 “(B) JUDICIAL REVIEW.—Any borrower
9 who is adversely affected by the final agency ac-
10 tion shall be entitled to judicial review of such
11 action pursuant to section 706 of title 5, United
12 States Code.

13 “(4) INFORMATION.—The Secretary shall make
14 publicly available on the Internet and elsewhere in-
15 formation about how borrowers can make appeals
16 under this subsection and in what circumstances
17 they can do so.

18 “(5) SAME RIGHTS.—Borrowers shall have the
19 same right to appeal, including the same rights and
20 remedies, whether their loans are held under part B,
21 part D, or part E, and whether the respondent is
22 the Department or another lender that participates
23 in programs described in part B, part D, or part E.

24 “(6) INAPPLICABILITY OF APA.—The Secretary
25 shall not be required to comply with the provisions

1 of subchapter II of chapter 5, and chapter 7, of title
 2 5, United States Code (commonly referred to as the
 3 Administrative Procedure Act), in implementing this
 4 subsection, except as provided in paragraph (3)(B).

5 “(d) ADMISSIONS OFFICERS AS SALESPERSONS.—
 6 Notwithstanding any other provision of this Act, an insti-
 7 tution of higher education that does not comply with sec-
 8 tion 487(a) by violating paragraph (20) of such section
 9 shall be liable to a borrower of a Federal student loan
 10 taken out to attend such institution for the entire amount
 11 of such loan.

12 “(e) RIGHT TO PAY OFF PRINCIPAL FASTER THAN
 13 SCHEDULED.—A lender of a Federal student loan shall
 14 provide a borrower who pays more than the amount re-
 15 quired for any regularly scheduled payment an easy and
 16 unbiased means of choosing whether such overpayment
 17 payment should count as a—

18 “(1) prepayment for a subsequently scheduled
 19 payment; or

20 “(2) payment against the principal owed on
 21 such loan.”.

22 **SEC. 9. PREFERRED LENDER REQUIREMENTS.**

23 Section 487(a) of the Higher Education Act of 1965
 24 (20 U.S.C. 1088) is amended by adding at the end the
 25 following:

1 “(24) The institution will not cause any unnec-
2 essary loan processing delay for a borrower who uses
3 a lender that is not recommended or suggested by
4 the institution.”.

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