

113TH CONGRESS
2D SESSION

S. 2460

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require additional disclosures and protections for students and cosigners with respect to student loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2014

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require additional disclosures and protections for students and cosigners with respect to student loans, 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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Christopher Bryski Student Loan Protection Act” or
6 “Christopher’s Law”.

7 (b) **FINDINGS.**—Congress finds the following:

1 (1) According to the Bureau of Consumer Fi-
2 nancial Protection (hereafter referred to as the
3 “CFPB”) Student Loan Ombudsman:

4 (A) “The CFPB received more than 2,300
5 private student loan complaints and more than
6 1,300 debt collection complaints related to stu-
7 dent loans between October 1, 2013, and March
8 31, 2014.”.

9 (B) “Co-signers complain that information
10 about discharge or alternative arrangements in
11 the case of death of the primary borrower is not
12 readily available and that decisions are made on
13 a case-by-case basis, giving co-signers little un-
14 derstanding of how the process works, or if they
15 will be successful.”.

16 (C) “The complaints and input received by
17 the CFPB resemble many of the same issues
18 experienced by mortgage borrowers, such as im-
19 proper application of payments, untimeliness in
20 error resolution, and inability to contact appro-
21 priate personnel in times of hardship.”.

22 (D) “The difference between federal and
23 private student loans in periods of disability
24 was not well-understood.”.

1 (2) An estimated 1,700,000 people sustain a
2 traumatic brain injury each year, with older adoles-
3 cents aged 15 to 19 years old more likely to sustain
4 a traumatic brain injury than other age groups.

5 (3) It has been estimated that the annual inci-
6 dence of spinal cord injury, not including those who
7 die at the scene of an accident, is approximately 40
8 cases per 1,000,000 people in the United States or
9 approximately 12,000 new cases each year. These in-
10 juries can lead to permanent disability or loss of
11 movement and can prohibit the victim from engaging
12 in any substantial gainful activity.

13 (4) According to the CFPB, more than 90 per-
14 cent of new private student loans are co-signed.

15 **SEC. 2. ADDITIONAL STUDENT LOAN PROTECTIONS.**

16 (a) IN GENERAL.—Section 140 of the Truth in Lend-
17 ing Act (15 U.S.C. 1650) is amended by adding at the
18 end the following:

19 “(g) ADDITIONAL PROTECTIONS RELATING TO
20 DEATH OR DISABILITY OF BORROWER OR COSIGNER OF
21 A PRIVATE EDUCATION LOAN.—

22 “(1) CLEAR AND CONSPICUOUS DESCRIPTION
23 OF BORROWER’S AND COSIGNER’S OBLIGATION.—In
24 the case of any private educational lender who ex-
25 tends a private education loan, the lender shall

1 clearly and conspicuously describe, in writing, the
2 cosigner's obligations with respect to the loan, in-
3 cluding the effect the death, disability, or inability to
4 engage in any substantial gainful activity of the bor-
5 rower or any cosigner would have on any such obli-
6 gation, in language that the Bureau determines
7 would give a reasonable person a reasonable under-
8 standing of the obligation being assumed by becom-
9 ing a cosigner for the loan.

10 “(2) DESIGNATION OF INDIVIDUAL TO ACT ON
11 BEHALF OF THE BORROWER.—In the case of any
12 private educational lender who extends a private
13 education loan, the lender shall require the borrower
14 to designate an individual to have the legal authority
15 to act on behalf of the borrower with respect to the
16 private education loan in the event of the borrower's
17 death, disability, or inability to engage in any sub-
18 stantial gainful activity.

19 “(3) COUNSELING.—In the case of any private
20 educational lender who extends a private education
21 loan, the lender shall ensure that the borrower, and
22 any cosigner, receives comprehensive information on
23 the terms and conditions of the loan and of the re-
24 sponsibilities the borrower has with respect to such
25 loan, including the information described under sec-

1 tion 485(1)(2) of the Higher Education Act of 1965
2 (20 U.S.C. 1092(1)(2)).

3 “(4) MODEL FORM.—The Bureau shall publish
4 a model form under section 105 for describing a co-
5 signer’s obligation for purposes of paragraph (1).

6 “(5) DEFINITION OF DEATH, DISABILITY, OR
7 INABILITY TO ENGAGE IN ANY SUBSTANTIAL GAIN-
8 FUL ACTIVITY.—For the purposes of this subsection
9 with respect to a borrower or cosigner, the term
10 ‘death, disability, or inability to engage in any sub-
11 stantial gainful activity’—

12 “(A) means any condition described in sec-
13 tion 437(a) of the Higher Education Act of
14 1965 (20 U.S.C. 1087(a)); and

15 “(B) shall be interpreted by the Bureau in
16 such a manner as to conform with the regula-
17 tions prescribed by the Secretary of Education
18 under section 437(a) of such Act (20 U.S.C.
19 1087(a)) to the fullest extent practicable, in-
20 cluding safeguards to prevent fraud and
21 abuse.”.

22 (b) DEFINITIONS.—Subsection (a) of section 140 of
23 the Truth in Lending Act (15 U.S.C. 1650(a)) is amend-
24 ed—

1 (1) by redesignating paragraphs (1) through
2 (8) as paragraphs (2) through (9), respectively; and
3 (2) by inserting before paragraph (2) (as redesi-
4 gnated by paragraph (1)) the following:

5 “(1) the term ‘cosigner’—

6 “(A) means any individual who is liable for
7 the obligation of another without compensation,
8 regardless of how designated in the contract or
9 instrument;

10 “(B) includes any person whose signature
11 is requested as condition to grant credit or to
12 forbear on collection; and

13 “(C) does not include a spouse of an indi-
14 vidual referred to in subparagraph (A) whose
15 signature is needed to perfect the security inter-
16 est in the loan;”.

17 (c) RULEMAKING.—Not later than the end of the 1-
18 year period following the date of the enactment of this
19 Act, the Bureau of Consumer Financial Protection shall
20 issue regulations to carry out section 140(g) of the Truth
21 in Lending Act.

22 **SEC. 3. FEDERAL STUDENT LOANS.**

23 (a) COUNSELING INFORMATION.—Section 485(l)(2)
24 of the Higher Education Act of 1965 (20 U.S.C.
25 1092(l)(2)) is amended by adding at the end the following:

1 “(L) Information on the conditions re-
2 quired to discharge the loan due to the death,
3 disability, or inability to engage in any substan-
4 tial gainful activity of the borrower in accord-
5 ance with section 437(a), and an explanation
6 that, in the case of a private education loan
7 made through a private educational lender (as
8 such terms are defined in section 140 of the
9 Truth in Lending Act (15 U.S.C. 1650)), the
10 borrower, the borrower’s estate, and any co-
11 signer of such a private education loan may be
12 obligated to repay the full amount of the loan,
13 regardless of the death or disability of the bor-
14 rower or any other condition described in sec-
15 tion 437(a).

16 “(M) Any repayment, refinance, deferment,
17 forbearance, or forgiveness opportunities avail-
18 able to the borrower, or cosigner, in the event
19 of either individual’s death, disability, or inabil-
20 ity to engage in any substantial gainful activity.

21 “(N) The effect that the death, disability,
22 or inability to engage in any substantial gainful
23 activity of the borrower would have on the obli-
24 gations of the borrower and any cosigner of the
25 loan.”.

1 (b) DESIGNATION OF INDIVIDUAL TO ACT ON BE-
2 HALF OF THE BORROWER.—Section 484(a)(4) of the
3 Higher Education Act of 1965 (20 U.S.C. 1091(a)(4)) is
4 amended—

5 (1) in subparagraph (A), by striking “and”
6 after the semicolon;

7 (2) in subparagraph (B), by inserting “and”
8 after the semicolon; and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(C) a designation by such student of an
12 individual who shall have the legal authority to
13 act on behalf of the student with respect to any
14 loan to the student under this title in the event
15 of the student’s death, disability, or inability to
16 engage in any substantial gainful activity;”.

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