H. R. 3474

To establish additional protections and disclosures for students and co-signers with respect to student loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2015

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

A BILL

To establish additional protections and disclosures for students and co-signers with respect to student loans, and for other purposes.

By it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

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

(b) FINDINGS.—Congress finds the following:
(1) According to the Bureau of Consumer Financial Protection (hereafter referred to as the “CFPB”) Student Loan Ombudsman:

(A) “The CFPB received more than 3,100 private student loan complaints and approximately 1,100 debt collection complaints related to student loans between October 1, 2014, and March 31, 2015.”.

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

(C) “The complaints and input received by the CFPB resemble many of the same issues experienced by mortgage borrowers, such as improper application of payments, untimeliness in error resolution, and inability to contact appropriate personnel in times of hardship.”.

(D) “The difference between federal and private student loans in periods of disability was not well-understood.”.
(2) An estimated 1,700,000 people sustain a traumatic brain injury each year, with older adolescents aged 15 to 19 years old more likely to sustain a traumatic brain injury than other age groups.

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

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

(5) According to the CFPB, private student loan companies provide co-signer release to less than 1 percent of eligible borrowers.

SEC. 2. ADDITIONAL STUDENT LOAN PROTECTIONS.

(a) In General.—Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

“(g) ADDITIONAL PROTECTIONS RELATING TO BORROWER OR CO-SIGNER OF A PRIVATE EDUCATION LOAN.—
“(1) Clear and conspicuous description of borrower’s and co-signer’s obligation.—In the case of any private educational lender who extends a private education loan, the lender shall clearly and conspicuously describe, in writing, the co-signer’s obligations with respect to the loan, including the effect the death, disability, or inability to engage in any substantial gainful activity of the borrower or any co-signer would have on any such obligation, in language that the Bureau determines would give a reasonable person a reasonable understanding of the obligation being assumed by becoming a co-signer for the loan.

“(2) Prohibition on automatic default with respect to a performing loan.—

“(A) Death, disability, or bankruptcy of co-signer.—If a private education loan includes a co-signer, a private educational lender may not take any adverse action (including declaring a default, accelerating any loan obligation, increasing the interest rate, or altering any obligations under the private education loan in a way that is adverse to the borrower) against the borrower based on the death, dis-
ability, or inability to engage in any substantial

gainful activity or bankruptcy of a co-signer.

“(B) Death, disability, or bankruptcy of borrower.—If a private education

loan includes a co-signer, a private educational

lender may not take any adverse action (including declaring a default, accelerating any loan

obligation, increasing the interest rate, or altering any obligations under the private education

loan in a way that is adverse to any co-signer) against the co-signer based on the death, dis-

ability, or inability to engage in any substantial

gainful activity, or bankruptcy of the borrower.

“(3) Co-signer release.—

“(A) Requirements for automatic re-

lease of co-signer.—

“(i) Criteria established by the

bureau.—Not later than 180 days after

the date of enactment of this subsection,

the Bureau shall establish criteria, which if

met by the borrower of a private education

loan, the private educational lender or

servicer of the private education loan shall

promptly release any co-signer from the

obligations of the co-signer under the loan
without requiring any action on behalf of the borrower.

“(ii) Criteria established by lender.—A private educational lender may establish criteria for automatic release that are different from the criteria described in clause (i) if the criteria established by the lender are not more restrictive with respect to the borrower or any co-signer of the private education loan than the criteria established under clause (i).

“(B) Disclosure of criteria for co-signer release.—A private educational lender shall—

“(i) include in the promissory note of a private education loan the criteria under which a co-signer may be released from the obligation of the co-signer under a private education loan under this subparagraph; and

“(ii) disclose to the borrower and any co-signer at the time the private education loan is consummated, clearly and conspicuously, the criteria under which a co-signer
may be released from the obligation of the 

co-signer under a private education loan.

“(C) MODIFICATIONS TO CRITERIA.—The 

private educational lender, or servicer of a pri-

vate education loan, as applicable, may not 

modify the criteria under which a co-signer may 

be released from the obligation of the co-signer 

under a private education loan if the modifica-

tion would be adverse to the borrower without 

the consent of the borrower and applicable co-

signer.

“(D) NOTIFICATION ON RELEASE.—A pri-

vate educational lender, or servicer, as applica-

ble, shall promptly notify the borrower and any 

co-signers for a private education loan if a co-

signer is released from the obligations of the co-

signer under the private education loan under 

this subparagraph.

“(E) MODIFICATION OF EVALUATION OF 

CREDITWORTHINESS, CREDIT STANDING, OR 

CREDIT CAPACITY.—In determining whether the 

criteria for a co-signer release are met, a pri-

vate educational lender or servicer of a private 

education loan, as applicable, may not evaluate 

the creditworthiness, credit standing, or credit
capacity of the borrower or a co-signer of the private education loan using a standard that would be more adverse to the borrower or co-signer, as applicable, than the standard the private educational lender used to evaluate the creditworthiness, credit standing, or credit capacity of the borrower or co-signer on the date on which the private education loan was consummated.

“(4) DESIGNATION OF INDIVIDUAL TO ACT ON BEHALF OF THE BORROWER.—In the case of any private educational lender who extends a private education loan, the lender shall provide the borrower an option to designate an individual to have the legal authority to act on behalf of the borrower with respect to the private education loan in the event of the borrower’s death, disability, or inability to engage in any substantial gainful activity.

“(5) COUNSELING.—In the case of any private educational lender who extends a private education loan, the lender shall ensure that the borrower, and any co-signer, receives comprehensive information on the terms and conditions of the loan and of the responsibilities the borrower has with respect to such loan, including the information described under sub-
paragraphs (H), (I), (K), (L), (M), and (N) of section 485(l)(2) of the Higher Education Act of 1965 (20 U.S.C. 1092(l)(2)).

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

“(7) DEFINITION OF DEATH, DISABILITY, OR INABILITY TO ENGAGE IN ANY SUBSTANTIAL GAINFUL ACTIVITY.—For the purposes of this subsection with respect to a borrower or co-signer, the term ‘death, disability, or inability to engage in any substantial gainful activity’—

“(A) means any condition described in section 437(a) of the Higher Education Act of 1965 (20 U.S.C. 1087(a)); and

“(B) shall be interpreted by the Bureau in such a manner as to conform with the regulations prescribed by the Secretary of Education under section 437(a) of such Act (20 U.S.C. 1087(a)) to the fullest extent practicable, including safeguards to prevent fraud and abuse.”.

(b) DEFINITIONS.—Subsection (a) of section 140 of the Truth in Lending Act (15 U.S.C. 1650(a)) is amended—
(1) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

“(1) the term ‘co-signer’—

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

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

“(C) does not include a spouse of an individual referred to in subparagraph (A) whose signature is needed to perfect the security interest in the loan;”.

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

SEC. 3. FEDERAL STUDENT LOANS.

(a) COUNSELING INFORMATION.—Section 485(l)(2) of the Higher Education Act of 1965 (20 U.S.C. 1092(l)(2)) is amended by adding at the end the following:
“(L) Information on the conditions required to discharge the loan due to the death, disability, or inability to engage in any substantial gainful activity of the borrower in accordance with section 437(a).

“(M) Any repayment, refinance, deferment, forbearance, or forgiveness opportunities available to the borrower, or co-signer, in the event of either individual’s death, disability, or inability to engage in any substantial gainful activity.

“(N) The effect that the death, disability, or inability to engage in any substantial gainful activity of the borrower would have on the obligations of the borrower and any co-signer of the loan.”.

(b) DESIGNATION OF INDIVIDUAL TO ACT ON BEHALF OF THE BORROWER.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended—

(1) in subsection (a), by striking paragraph (4) and inserting the following:

“(4) file with the Secretary, as part of the original financial aid application process, a certification, which need not be notarized, but which—

“(A) shall include—
“(i) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

“(ii) such student’s social security number; and

“(B) may include a designation by such student of an individual who shall have the legal authority to act on behalf of the student with respect to any loan to the student under this title in the event of the student’s death, disability, or inability to engage in any substantial gainful activity;”; and

(2) by adding at the end the following:

“(u) OPTION TO DESIGNATE INDIVIDUAL TO ACT ON BEHALF OF THE BORROWER IN CLEAR AND CONSPICUOUS MANNER.—The option for a student to make a designation described in subsection (a)(4)(B) shall be provided in a clear and conspicuous manner to the student.”.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this Act, or an amendment made by this Act, shall be construed to adversely affect the eligibility
of a student to receive any grant, loan, or work assistance under part C or part G of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq. and 20 U.S.C. 1088 et seq.) based on a designation, or lack thereof, under section 484(a)(4)(B) of that Act, as added by section 3(b) of this Act.