AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5294

OFFERED BY MS. ADAMS OF NORTH CAROLINA

[Amendment to the Student Borrower Protections Act of 2019]

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Student Borrower Protections Act of 2019”.

SEC. 2. POSTSECONDARY EDUCATION LOAN BORROWER BILL OF RIGHTS.

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended—

(1) by redesignating section 140A as section 140B;

(2) by inserting after section 140 the following:

“§ 140A. Postsecondary education loan borrower bill of rights

“(a) DEFINITIONS.—In this paragraph:

“(1) BORROWER.—The term ‘borrower’ means the person to whom a postsecondary education loan is extended.
“(2) **Charge Off.**—The term ‘charge off’ means charge to profit and loss, or subject to any similar action.

“(3) **Covered Lender, Servicer, or Assignee.**—The term ‘covered lender, servicer, or assignee’ means—

“(A) an eligible lender (as defined under section 435 of the Higher Education Act of 1965) of a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965;

“(B) any entity with which the Secretary of Education enters into a contract under section 456 of the Higher Education Act of 1965 for origination, servicing, or collection described in subsection (b) of such section 456 and is engaged in the provision of, or offering, servicing, or collections regardless of whether the Secretary identifies the entity as a ‘servicer’ in such contract;

“(C) a private educational lender (as defined under section 140(a));

“(D) any other person or entity engaged in the business of securing, making, or extending postsecondary education loans on behalf of a
person or entity described in subparagraph (A) or (C); or

“(E) any other holder of a postsecondary education loan other than the Secretary of Education.

“(4) POSTSECONDARY EDUCATION LOAN.—The term ‘postsecondary education loan’ means—

“(A) a private education loan (as defined under section 140(a)); or

“(B) a loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965.

“(5) QUALIFIED WRITTEN REQUEST.—

“(A) IN GENERAL.—The term ‘qualified written request’ means a written correspondence of a borrower (other than notice on a payment medium supplied by the postsecondary educational lender or servicer) transmitted by mail, facsimile, or electronically through an email address or website designated by the covered lender, servicer, or assignee to receive communications from borrowers that—

“(i) includes, or otherwise enables the covered lender, servicer, or assignee to
identify, the name and account of the borrower; and

“(ii) includes, to the extent applicable—

“(I) sufficient detail regarding the information sought by the borrower; or

“(II) a statement of the reasons for the belief of the borrower that there is an error regarding the account of the borrower.

“(B) Correspondence delivered to other addresses.—

“(i) In general.—A written correspondence of a borrower is a qualified written request if the written correspondence is transmitted to and received by a covered lender, servicer, or assignee at a mailing address, facsimile number, email address, or website address other than the address or number designated by that covered lender, servicer, or assignee to receive communications from borrowers but the written correspondence meets the re-
quirements under clauses (i) and (ii) of subparagraph (A).

“(ii) DUTY TO TRANSFER.—A covered lender, servicer, or assignee shall, within a reasonable period of time, transfer a written correspondence of a borrower received by the covered lender, servicer, or assignee at a mailing address, facsimile number, email address, or website address other than the address or number designated by that covered lender, servicer, or assignee to receive communications from borrowers to the correct address or appropriate office or other unit of the covered lender, servicer, or assignee.

“(iii) DATE OF RECEIPT.—A written correspondence of a borrower transferred in accordance with clause (i) shall be deemed to be received by the covered lender, servicer, or assignee on the date on which the written correspondence is transferred to the correct address or appropriate office or other unit of the covered lender, servicer, or assignee.
“(6) Servicing.—The term ‘servicing’ means 1 or more of the following:

“(A) Receiving any scheduled periodic payments from a borrower or notification of such payments pursuant to the terms of a postsecondary education loan or contract governing the servicing.

“(B) Applying payments to the borrower’s account pursuant to the terms of the postsecondary education loan or the contract governing the servicing.

“(C) Maintaining account records for a postsecondary education loan.

“(D) Communicating with a borrower regarding a postsecondary education loan on behalf of the covered lender, servicer, or assignee.

“(E) Interactions with a borrower, including activities to help prevent default on obligations arising from postsecondary education loans, conducted to facilitate the activities described in subparagraph (A) or (B).

“(b) Sale, Transfer, or Assignment.—If the sale, other transfer, assignment, or transfer of servicing obligations of a postsecondary education loan results in a change in the identity of the party to whom the borrower
must send subsequent payments or direct any communications concerning the loan—

“(1) the transferor shall—

“(A) notify the borrower, in writing, in simple and understandable terms, not fewer than 45 days before transferring a legally enforceable right to receive payment from the borrower on such loan, of—

“(i) the sale or other transfer, assignment, or transfer of servicing obligations;

“(ii) the identity of the transferee;

“(iii) the name, address, and email address of the party to whom subsequent payments or communications must be sent;

“(iv) the telephone numbers and websites of both the transferor and the transferee;

“(v) the effective date of the sale, transfer, or assignment;

“(vi) the date on which the transferor will stop accepting payment; and

“(vii) the date on which the transferee will begin accepting payment;

“(B) forward any payment from a borrower with respect to such postsecondary edu-
cation loan to the transferee, immediately upon receiving such payment, during the 60-day period beginning on the date on which the transferor stops accepting payment of such postsecondary education loan;

“(C) provide to the transferee all borrower information and complete payment history information for any such postsecondary education loans; and

“(2) the transferee shall—

“(A) notify the borrower, in writing, in simple and understandable terms, not fewer than 45 days before acquiring a legally enforceable right to receive payment from the borrower on such loan, of—

“(i) the sale or other transfer, assignment, or transfer of servicing obligations;

“(ii) the identity of the transferor;

“(iii) the name, address, and email address of the party to whom subsequent payments or communications must be sent;

“(iv) the telephone numbers and websites of both the transferor and the transferee;
“(v) the effective date of the sale, transfer, assignment, or transfer of servicing obligations;
“(vi) the date on which the transferor will stop accepting payment; and
“(vii) the date on which the transferee will begin accepting payment;
“(B) accept as on-time and may not impose any late fee or finance charge for any payment from a borrower with respect to such postsecondary education loan that is forwarded from the transferor during the 90-day period beginning on the date on which the transferor stops accepting payment, if the transferor receives such payment on or before the applicable due date, including any grace period;
“(C) provide borrowers a simple, online process for transferring existing electronic fund transfer authority; and
“(D) honor any promotion or benefit available or granted to the borrower or advertised by the previous owner or transferor of such postsecondary education loan.
“(c) MATERIAL CHANGE IN MAILING ADDRESS OR PROCEDURE FOR HANDLING PAYMENTS.—
“(1) IN GENERAL.—If a covered lender, servicer, or assignee makes a change in the mailing address, office, or procedures for handling payments with respect to any postsecondary education loan, the covered lender, servicer, or assignee shall clearly and conspicuously notify the borrower in writing and through the borrower’s preferred or designated method of communication not less than 45 calendar days in advance of such change.

“(2) BORROWER PROTECTION WINDOW.—If a change described in paragraph (1) causes a delay in the crediting of the account of the borrower made during the 90-day period following the date on which such change took effect, the covered lender, servicer, or assignee may not impose on the borrower any negative consequences, including negative credit reporting, lost eligibility in borrower benefits, late fees, interest capitalization, or other financial injury.

“(3) LOAN FORGIVENESS PROGRAMS.—For purposes of any public or private loan forgiveness program that applies to a postsecondary education loan, such program shall not be tolled during the 90-day period following the date on which a change described under paragraph (1) takes effect.
“(d) INTEREST RATE AND TERM CHANGES FOR CERTAIN POSTSECONDARY EDUCATION LOANS.—

“(1) NOTIFICATION REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in paragraph (3), a covered lender, servicer, or assignee shall provide written notice to a borrower of any material change in the terms of the postsecondary education loan, including an increase in the interest rate, not later than 45 days before the effective date of the change or increase.

“(B) MATERIAL CHANGES IN TERMS.—The Bureau shall, by regulation, establish guidelines for determining which changes in terms are material under subparagraph (A).

“(2) LIMITS ON INTEREST RATE AND FEE INCREASES APPLICABLE TO OUTSTANDING BALANCE.—Except as provided in paragraph (3), a covered lender, servicer, or assignee may not increase the interest rate or other fee applicable to an outstanding balance on a postsecondary education loan.

“(3) EXCEPTIONS.—The requirements under paragraphs (1) and (2) shall not apply to—

“(A) an increase based on an applicable variable interest rate incorporated in the terms of a postsecondary education loan that provides
for changes in the interest rate according to operation of an index that is not under the control of the covered lender, servicer, or assignee and is published for viewing by the general public;

“(B) an increase in interest rate due to the completion of a workout or temporary hardship arrangement by the borrower or the failure of the borrower to comply with the terms of a workout or temporary hardship arrangement if—

“(i) the interest rate applicable to a category of transactions following any such increase does not exceed the rate or fee that applied to that category of transactions prior to commencement of the workout or temporary hardship arrangement; and

“(ii) the covered lender, servicer, or assignee has provided the borrower, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the workout or temporary hardship arrangement (including any increases due to such completion or failure); and
“(C) an increase in interest rate due to a provision included within the terms of a post-secondary education loan that provides for a lower interest rate based on the borrower’s agreement to a prearranged plan that authorizes recurring electronic funds transfers if—

“(i) the borrower withdraws the borrower’s authorization of the prearranged recurring electronic funds transfer plan; and

“(ii) after withdrawal of the borrower’s authorization and prior to increasing the interest rate, the covered lender, servicer, or assignee has provided the borrower with clear and conspicuous disclosure of the impending change in borrower’s interest rate and a reasonable opportunity to reauthorize the prearranged electronic funds transfers plan.

“(e) Payment Information.—

“(1) Statement required with each billing cycle.—A covered lender, servicer, or assignee for each borrower’s account that is being serviced by the covered lender, servicer, or assignee and that includes a postsecondary education loan shall transmit
to the borrower, for each billing cycle during which there is an outstanding balance in that account, a billing statement that includes—

“(A) the interest rate, principal balance, minimum monthly payment, and payment due date for each loan;

“(B) the outstanding balance in the account and each loan at the beginning of the billing cycle;

“(C) the total amount credited to the account and each loan during the billing cycle;

“(D) the total amount of unpaid interest for the account and each loan;

“(E) the amount of any fee added to the account during the billing cycle, itemized to show each individual fee amount and reason for each fee;

“(F) the address, email address, and phone number of the covered lender, servicer, or assignee to which the borrower may direct billing inquiries;

“(G) the amount of any payments or other credits during the billing cycle that was applied respectively to the principal and to interest for each loan;
“(H) the manner, pursuant to subsection (g), in which payments will be allocated among multiple loans if the borrower does not provide specific payment instructions;

“(I) whether each loan is in deferment or forbearance;

“(J) information on how to file a complaint with the Bureau and with the ombudsman designated pursuant to section 1035 of the Consumer Financial Protection Act of 2010 and the Department of Education;

“(K) for any borrower considered to be at risk, as described in subsection (j)(1), a statement that a repayment specialist office or unit designated under subsection (j) is available to answer inquiries related to alternative repayment options, including the toll-free telephone number to contact the specialist pursuant to subsection (j)(3); and

“(L) any other information determined appropriate by rule of the Bureau.

“(2) DISCLOSURE OF PAYMENT DEADLINES.— In the case of a postsecondary education loan account under which a late fee or charge may be imposed due to the failure of the borrower to make
payment on or before the due date for such pay-
ment, the billing statement required under para-
graph (1) with respect to the account shall include,
in a conspicuous location on the billing statement,
the date on which the payment is due or, if dif-
ferent, the date on which a late fee will be charged,
together with the amount of the late fee to be im-
posed if payment is made after that date.

“(f) APPLICATION OF PAYMENTS.—

“(1) APPLY PAYMENT ON DATE RECEIVED.—

Unless otherwise directed by the borrower, a covered
lender, servicer, or assignee shall apply payments to
a borrower’s account on the date the payment is re-
ceived.

“(2) PROMULGATION OF RULES.—The Bureau
may issue rules for the application of postsecondary
education loan payments that—

“(A) implements the requirements in this
section;

“(B) minimizes the amount of fees and in-
terest incurred by the borrower and the total
loan amount paid by the borrower;

“(C) minimizes delinquencies, assignments
to collection, and charge offs;
“(D) requires covered lender, servicer, or assignee to apply payments on the date received; and

“(E) allows the borrower to instruct the covered lender, servicer, or assignee to apply payments in a manner preferred by the borrower.

“(3) Method that best benefits borrower.—In promulgating the rules under paragraph (2), the Bureau shall choose the allocation method that best benefits the borrower and is compatible with existing repayment options.

“(g) Allocation of Payments Among Multiple Loans.—

“(1) Allocation of underpayments.—Unless otherwise directed by the borrower, upon receipt of a payment that does not satisfy the full amount due for each postsecondary education loan, the covered lender, servicer, or assignee shall allocate amounts in a manner that minimizes negative consequences, including negative credit reporting and late fees, and, where multiple loans share an equal stage of delinquency, the covered lender, servicer, or assignee shall first allocate payment to the postsecondary education loan with the smallest monthly
payment, and then, after satisfying that monthly
payment, to each successive loan bearing the next
highest monthly payment, until the payment is ex-
hausted. A borrower may instruct or expressly au-
thorize a covered lender, servicer, or assignee to allo-
cate payments in a different manner.

“(2) ALLOCATION OF EXCESS AMOUNTS.—Un-
less otherwise directed by the borrower, upon receipt
of a payment exceeding the total amount due among
all the borrower’s postsecondary education loans, the
covered lender, servicer, or assignee shall satisfy the
amounts due for each loan, and then allocate
amounts in excess of the minimum payment amount
first to the postsecondary education loan balance
bearing the highest annual percentage rate, and
then, once that loan is repaid, to each successive
postsecondary education loan bearing the next high-
est annual percentage rate, until the payment is ex-
hausted. A borrower may instruct or expressly au-
thorize a covered lender, servicer, or assignee to allo-
cate such excess payments in a different manner.

“(3) ALLOCATION OF EXACT PAYMENTS.—Un-
less otherwise directed by the borrower upon receipt
of a payment that exactly satisfies the monthly pay-
ments for each loan, the covered lender, servicer, or
assignee shall allocate payments to satisfy each monthly payment.

“(4) PROMULGATION OF RULES.—The Bureau may issue rules for the allocation of payments among multiple postsecondary education loans that comply with the requirements of subsection (f)(2).

“(5) METHOD THAT BEST BENEFITS BORROWER.—In promulgating the rules under paragraph (4), the Director shall choose the allocation method that best benefits the borrower and is compatible with existing repayment options.

“(h) LATE FEES.—

“(1) IN GENERAL.—A late fee may not be charged to a borrower for a postsecondary education loan under any of the following circumstances, either individually or in combination:

“(A) On a per-loan basis when a borrower has multiple postsecondary education loans.

“(B) In an amount greater than 4 percent of the amount of the payment past due.

“(C) Before the end of the 15-day period beginning on the date the payment is due.

“(D) More than once with respect to a single late payment.
“(E) The borrower fails to make a singular, non-successive regularly scheduled payment on the postsecondary education loan.

“(2) COORDINATION WITH SUBSEQUENT LATE FEES.—No late fee may be charged to a borrower for a postsecondary education loan relating to an insufficient payment if the payment is made on or before the due date of the payment, or within any applicable grace period for the payment, if the insufficiency is attributable only to a late fee relating to an earlier payment, and the payment is otherwise a full payment for the applicable period.

“(3) PAYMENTS AT LOCAL BRANCHES.—If the loan holder, in the case of a postsecondary education loan account, is a financial institution that maintains a branch or office at which payments on any such account are accepted from the borrower in person, the date on which the borrower makes a payment on the account at such branch or office shall be considered to be the date on which the payment is made for purposes of determining whether a late fee may be imposed due to the failure of the borrower to make payment on or before the due date for such payment.

“(i) BORROWER INQUIRIES.—
“(1) Duty of covered lender, servicer, or assignee to respond to borrower inquiries.—

“(A) Notice of receipt of request.—

If a borrower submits a qualified written request to the covered lender, servicer, or assignee for information relating to the servicing of the postsecondary education loan, the covered lender, servicer, or assignee shall provide a written response acknowledging receipt of the qualified written request within 5 business days unless any action requested by the borrower is taken within such period.

“(B) Action with respect to inquiry.—Not later than 30 business days after the receipt from a borrower of a qualified written request under subparagraph (A) and, if applicable, before taking any action with respect to the qualified written request of the borrower, the covered lender, servicer, or assignee shall—

“(i) make appropriate corrections in the account of the borrower, including the crediting of any late fees, and transmit to the borrower a written notification of such correction (which shall include the name
and toll-free or collect-call telephone number of a representative of the covered lender, servicer, or assignee who can provide assistance to the borrower);

“(ii) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

“(I) to the extent applicable, a statement of the reasons for which the covered lender, servicer, or assignee believes the account of the borrower is correct as determined by the covered lender, servicer, or assignee; and

“(II) the name and toll-free or collect-call telephone number of an individual employed by, or the office or department of, the covered lender, servicer, or assignee who can provide assistance to the borrower; or

“(iii) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

“(I) information requested by the borrower or explanation of why the information requested is unavailable or
cannot be obtained by the covered lender, servicer, or assignee; and

“(II) the name and toll-free or collect-call telephone number of an individual employed by, or the office or department of, the covered lender, servicer, or assignee who can provide assistance to the borrower.

“(C) LIMITED EXTENSION OF RESPONSE TIME.—

“(i) IN GENERAL.—There may be 1 extension of the 30-day period described in subparagraph (B) of not more than 15 days if, before the end of such 30-day period, the covered lender, servicer, or assignee notifies the borrower of the extension and the reasons for the delay in responding.

“(ii) REPORTS TO BUREAU.—Each covered lender, servicer, or assignee shall, on an annual basis, report to the Bureau the aggregate number of extensions sought by the such covered lender, servicer, or assignee under clause (i).
“(2) Protection against negative consequences.—During the 60-day period beginning on the date on which a covered lender, servicer, or assignee receives a qualified written request from a borrower relating to a dispute regarding payments by the borrower, a covered lender, servicer, or assignee may not impose any negative consequences on the borrower relating to the subject of the qualified written request or to such period including—

“(A) providing negative credit information to any consumer reporting agency (as defined in section 603 of the Fair Credit Reporting Act);

“(B) lost eligibility for a borrower benefit;

“(C) late fees;

“(D) interest capitalization; or

“(E) other financial injury.

“(j) Repayment Specialists for at-risk borrowers.—

“(1) At-risk borrowers.—A covered lender, servicer, or assignee shall designate an office or other unit to act as a repayment specialist regarding postsecondary education loans for—

“(A) any borrower who—
“(i) becomes 30 calendar days or more delinquent under the postsecondary education loan; or

“(ii) notifies the covered lender, servicer, or assignee that the borrower is having difficulty making payment;

“(B) any borrower who requests information related to options to reduce or suspend the borrower’s monthly payment, or otherwise indicates that the borrower is experiencing or is about to experience financial hardship or distress;

“(C) any borrower who has not completed the program of study for which the borrower received the loans;

“(D) any borrower who is enrolled in discretionary forbearance for more than 9 of the previous 12 months;

“(E) any borrower who has rehabilitated or consolidated 1 or more postsecondary education loans out of default within the prior 24 months;

“(F) a borrower who seeks information regarding, seeks to enter an agreement for, or seeks to resolve an issue under a repayment op-
tion that requires subsequent submission of supporting documentation;

“(G) a borrower who seeks to modify the terms of the repayment of the postsecondary education loan because of hardship; and

“(H) any borrower or segment of borrowers determined by the Bureau, in consultation with the Secretary of Education, to be at risk.

“(2) TRAINING.—Staff of the repayment specialist office or unit designated under paragraph (1) shall—

“(A) receive rigorous, ongoing training related to available repayment plans, loan forgiveness, and cancellation and discharge options; and

“(B) be trained to—

“(i) assess the borrower’s long-term and short-term financial situation in discussing alternative repayment options with borrowers;

“(ii) inform borrowers, when there is sufficient information to determine that a borrower may be eligible, about closed-school discharge, discharge under defense
to repayment, or total and permanent dis-
ability discharge prior to informing the
borrower about any other options for re-
payment; and

“(iii) inform borrowers about alter-
native repayment options, prior to dis-
cussing forbearance and deferment.

“(3) Toll-Free Telephone Number.—Each
covered lender, servicer, or assignee shall maintain a
toll-free telephone number that shall—

“(A) connect directly to the repayment
specialist office or unit designated under para-
graph (1);

“(B) be made available on the primary
internet website of the covered lender, servicer,
or assignee, on monthly billing statements, and
any required disclosures; and

“(C) not subject borrowers to unreasonable
call wait times.

“(4) Compensation.—Staff of the repayment
specialist office or unit designated under paragraph
(1) shall not be compensated on the basis of the vol-
ume of calls or accounts handled, dollar amounts
collected, brevity of calls, or in any other manner
that may encourage undue haste and lack of diligence or quality customer service.

“(k) Actions When Borrower Is Having Difficulty Making Payment or Is 60 Days Delinquent.—

“(1) In general.—Not more than 5 days after a borrower notifies a covered lender, servicer, or assignee that the borrower is having difficulty making payment or a borrower becomes 60 days delinquent on a postsecondary education loan, the repayment specialist office or unit designated under subsection (j) shall—

“(A) complete a full review of the borrower’s postsecondary education loan and make a reasonable effort to obtain the information necessary to determine—

“(i) if the borrower is eligible for an alternative repayment option, including Federal Direct Consolidation Loans under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), as applicable;

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

“(iii) if the postsecondary education loan is eligible for discharge by the Secretary of Education;

“(B) make a good faith effort to establish live contact with the borrower to provide the borrower information about alternative repayment options and benefits for which the borrower is eligible, including all terms, conditions, and fees or costs associated with such repayment plan;

“(C) provide to the borrower in writing, in simple and understandable terms, such information required by subparagraph (B);

“(D) allow the borrower not less than 30 days to apply for an alternative repayment option or benefits, if eligible;

“(E) notify the borrower that a service-member and veterans liaison designated under subsection (l) is available to answer inquiries about service-member and veteran benefits related to postsecondary education loans, includ-
ing the toll-free telephone number to contact the liaison; and

“(F) notify the borrower that a repayment specialist office or unit designated under subsection (j) is available to answer inquiries related to alternative repayment options, including the toll-free telephone number to contact the specialist.

“(2) FORBEARANCE OR DEFERMENT.—If, after receiving information about alternative repayment options from the repayment specialist, a borrower notifies the covered lender, servicer, or assignee that a long-term alternative repayment option is not appropriate, the covered lender, servicer, or assignee may comply with this subsection by providing the borrower, in writing, in simple and understandable terms, information about short-term options to address an anticipated short-term difficulty in making payments, such as forbearance or deferment options, including all terms, conditions, and fees or costs associated with such options.

“(3) NOTIFICATION PROCESS.—

“(A) IN GENERAL.—Each covered lender, servicer, or assignee shall establish a process, in accordance with paragraph (1), for a borrower
to notify the covered lender, servicer, or assignee that—

“(i) the borrower is having difficulty making payments on a postsecondary education loan; and

“(ii) a long-term alternative repayment option is not appropriate.

“(B) Bureau Requirements.—The Director of the Bureau shall, based on consumer testing and in consultation with the Secretary of Education, promulgate rules establishing minimum standards for covered lenders, servicers, or assignees in carrying out the requirements of this subsection and a model form for borrowers to notify a covered lender, servicer, or assignee of the information under this subsection.

“(l) Servicemembers, Veterans, and Postsecondary Education Loans.—

“(1) Servicemember and Veterans Liaison.—Each covered lender, servicer, or assignee shall designate an employee to act as the servicemember and veterans liaison who is responsible for answering inquiries from servicemembers and veterans, and is specially trained on servicemember and
veteran benefits under the Servicemembers Civil Relief Act and other Federal or State laws related to postsecondary education loans.

“(2) Toll-free telephone number.—Each covered lender, servicer, or assignee shall maintain a toll-free telephone number that shall—

“(A) connect directly to the servicemember and veterans liaison designated under paragraph (1);

“(B) be made available on the primary internet website of the covered lender, servicer, or assignee and on monthly billing statements; and

“(C) not subject borrowers to unreasonable call wait times.

“(3) Prohibition on charge offs and default.—A covered lender, servicer, or assignee may not charge off or report a postsecondary education loan as delinquent, assigned to collection (internally or by referral to a third party), in default, or charged off to a credit reporting agency if the borrower is on active duty in the Armed Forces (as defined in section 101(d)(1) of title 10, United States Code) serving in a combat zone (as designated by
the President under section 112(c) of the Internal Revenue Code of 1986).

“(4) ADDITIONAL LIAISONS.—The Director, in consultation with the Secretary, shall determine additional entities with whom borrowers interact, including guaranty agencies, that shall designate an employee to act as the servicemember and veterans liaison who is responsible for answering inquiries from servicemembers and veterans and is specially trained on servicemembers and veteran benefits and option under the Servicemembers Civil Relief Act.

“(m) BORROWER’S LOAN HISTORY.—

“(1) IN GENERAL.—A covered lender, servicer, or assignee shall make available in a secure electronic form usable by borrowers, or in writing upon request, the loan history of each borrower for each postsecondary education loan, separately designating—

“(A) payment history, including repayment plan and payments—

“(i) made on such loan to previous covered lender, servicer, or assignee; and

“(ii) qualifying toward a loan forgiveness program and designating such program;
“(B) loan history, including any forbearances, deferrals, delinquencies, assignment to collection, and charge offs;

“(C) annual percentage rate history;

“(D) key loan terms, including application of payments to interest, principal, and fees, origination date, principal, capitalized interest, annual percentage rate, including any cap, loan term, and any contractual incentives;

“(E) amount due to pay off the outstanding balance; and

“(F) any other items determined appropriate by rule of the Bureau.

“(2) Original documentation.—A covered lender, servicer, or assignee shall make available to the borrower, if requested, at no charge, copies of the original loan documents and the promissory note for each postsecondary education loan.

“(n) Additional servicing standards.—

“(1) Prohibitions.—A covered lender, servicer, or assignee may not—

“(A) charge a fee for responding to a qualified written request under this paragraph;

“(B) fail to take timely action to respond to a qualified written request from a borrower
to correct an error relating to an allocation of
payment or the payoff amount of the postsec-
ondary education loan;

“(C) fail to take reasonable steps to avail
the borrower of all possible alternative repay-
ment arrangements to avoid default;

“(D) fail to perform the obligations re-
quired under title IV of the Higher Education
Act of 1965;

“(E) fail to respond within 10 business
days to a request from a borrower to provide
the name, address, and other relevant contact
information of the loan holder of the borrower’s
postsecondary education loan or, for a Federal
Direct Loan or a Federal Perkins Loan, the
Secretary of Education, or the institution of
higher education who made the loan, respec-
tively;

“(F) fail to comply with any applicable re-
quirement of the Servicemembers Civil Relief
Act;

“(G) charge a convenience, processing, or
any other fee for payments made electronically
or by telephone;
“(H) fail to comply with any other obligation that the Bureau, by regulation, has determined to be appropriate to carry out the consumer protection purposes of this paragraph; or

“(I) fail to perform other standard servicing duties and functions.

“(2) Business hours.—Covered lenders, servicers, or assignees shall be open for borrower inquiries and outreach—

“(A) during normal business hours, Monday through Friday;

“(B) after business hours, Monday through Friday, including for not less than 3 hours after 5:00 p.m. in all continental United States time zones

“(C) for not less than 6 hours on Saturday; and

“(D) for not less than 6 hours on Sunday.

“(3) Additional standards.—The Bureau may issue rules establishing additional servicing standards to reduce delinquencies, assignment to collections, defaults, and charge offs, and to ensure borrowers understand their rights and obligations related to their postsecondary education loans.
“(o) Prohibition on Limiting Borrower Legal Action by Covered Lender, Servicer, or Assignee.—

“(1) Waiver of rights and remedies.—Any rights and remedies available to borrowers against covered lenders, servicers, or assignees may not be waived by any agreement, policy, or form, including by a mandatory predispute arbitration agreement or class action waiver.

“(2) Predispute Arbitration Agreements.—No limitation or restriction on the ability of a borrower to pursue a claim in court with respect to a postsecondary education loan, including mandatory predispute arbitration agreements and class action waivers, shall be valid or enforceable by a covered lender, servicer, or assignee, including as a third-party beneficiary or by estoppel.

“(p) Preemption.—Nothing in this paragraph may be construed to preempt any provision of State law regarding postsecondary education loans where the State law provides stronger consumer protections.

“(q) Civil Liability.—A covered lender, servicer, or assignee that fails to comply with any requirement imposed under this paragraph shall be deemed a creditor that has failed to comply with a requirement under this
chapter for purposes of liability under section 130 and such covered lender, servicer, or assignee shall be subject to the liability provisions under such section, including the provisions under paragraphs (1), (2)(A)(i), (2)(B), and (3) of section 130(a).

“(r) Eligibility for Discharge.—The Bureau shall issue rules requiring covered lender, servicer, or assignee to—

“(1) identify and contact borrowers who may be eligible for student loan discharge by the Secretary, including under section 437 of the Higher Education Act of 1965; and

“(2) provide the borrower, in writing, in simple and understandable terms, information about obtaining such discharge.

“(s) Model Disclosure Form for Alternative Repayment Options, Forbearance, and Deferment Options.—Not later than 2 years after the date of enactment of this section, the Director of the Bureau shall, based on consumer testing and in consultation with the Secretary of Education, develop and issue, pursuant to a formal rulemaking, model forms to allow borrowers to compare alternative repayment options, forbearance, and deferment options with the borrower’s existing repayment plan with respect to a postsecondary education loan. In
developing such forms, the Director shall consider and evaluate the following for inclusion:

“(1) The total amount to be paid over the life of the loan.

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

“(3) The monthly payment amount.

“(4) The expected pay-off date.

“(5) Other related fees and costs, as applicable.

“(6) Eligibility requirements, and how the borrower can apply for an alternative repayment option, forbearance, or deferment option.

“(7) Any relevant consequences due to action or inaction, such as default, including any actions that would result in the loss of eligibility for alternative repayment options, forbearance, or deferment options.

“(t) Student Loan Servicing Interagency Working Group.—

“(1) In general.—Not later than 30 days after the date of enactment of this section, the Director of the Bureau shall establish a student loan servicing interagency working group co-chaired by the Director and the Secretary of Education and including the Chief Operating Officer of the Office of
Federal Student Aid of the Department of Education, the Director of the Office of Management and Budget, the Secretary of the Treasury, and the heads of any other relevant Federal departments or agencies.

“(2) ADVISORY REPORT ON RULEMAKING.—

“(A) IN GENERAL.—Not later than 120 days after the date the working group under paragraph (1) is established, the working group shall publish an advisory report making recommendations to the Director of the Bureau related to the promulgation of regulations under this section with respect to entities with which the Secretary has entered into a contract under section 456 of the Higher Education Act of 1965.

“(B) PUBLIC FEEDBACK.—Following the publication of the advisory report required under subparagraph (A), the working group shall accept, for not less than 60 days, from the public specific feedback on the recommendations included in the report.

“(3) PUBLICATION OF FINAL RECOMMENDATIONS.—Not later than 30 days following the conclusion of the public feedback process described in
paragraph (2)(B), the working group shall publish final recommendations for the Director of the Bureau related to the promulgation of regulations under this section.

“(4) POLICY DIRECTION TO FEDERAL STUDENT AID.—The working group shall develop and propose policy direction for the Secretary of Education to issue to the Office of Federal Student Aid, through which the Office of Federal Student Aid shall incorporate, into contracts awarded under section 456 of the Higher Education Act of 1965, applicable requirements and standards promulgated under this section.

“(5) MEETINGS.—After the working group publishes final recommendations under paragraph (3), the working group shall meet not less often than once per year including to—

“(A) evaluate the application of regulations promulgated under this section on entities with which the Secretary has entered into a contract under section 456 of the Higher Education Act of 1965;

“(B) evaluate the Office of Federal Student Aid’s implementation of policy direction developed pursuant to paragraph (4);
“(C) develop and implement an oversight plan to ensure compliance by entities with which the Secretary has entered into a contract under section 456 of the Higher Education Act of 1965 with policy direction developed under paragraph (4) and regulations promulgated under this section; and

“(D) undertake other activities to improve coordination among the members of the working group as it relates to the Secretary’s administration of the Federal Direct Loan Program.

“(6) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to alter, limit, or restrict the Bureau’s obligations under chapter 5 of title 5, United States Code (commonly known as the ‘Administrative Procedures Act’), including the Director’s obligation to provide notice, solicit public comment, and respond to such comment when issuing regulations.”; and

(3) in the table of contents, by striking the item relating to section 140A and inserting the following:

“140A. Postsecondary education loan borrower bill of rights.

“140B. Procedure for timely settlement of estates of decedent obligors.”.
SEC. 3. STANDARDS FOR REPORTING INFORMATION ON STUDENT LOANS TO CONSUMER REPORTING AGENCIES.

Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended—

(1) by adding at the end the following:

“(f) REPORTING INFORMATION RELATED TO STUDENT LOANS.—

“(1) STANDARDS FOR REPORTING.—The Bureau, in consultation with the Secretary of Education, shall issue rules to establish standards for the furnishing of information related to student loans to a consumer reporting agency and any furnisher of such information shall comply with such rules.

“(2) SPECIFIC STANDARDS.—In issuing rules under paragraph (1), the Bureau shall specifically establish standards for the furnishing of information related to—

“(A) the transfer of the servicing of a student loan to a new servicer;

“(B) the loan term or duration of a student loan; or

“(C) a student loan being placed in forbearance.
“(3) Responsibilities of the private education loan ombudsman.—

“(A) Monitoring consumer complaints.—The Private Education Loan Ombudsman of the Bureau (in this subsection referred to as the ‘Ombudsman’) shall monitor complaints from consumers to assess compliance with the rules issued under paragraph (1) and, if the Ombudsman determines it appropriate, recommend supervisory or enforcement actions to the Director of the Bureau with respect to a person the Ombudsman determines may be in violation of such rules.

“(B) Recommendations on dispute process.—The Ombudsman shall issue periodic recommendations to the Director of the Bureau and the Congress on regulatory and statutory changes that the Ombudsman believes would improve the process under this section for disputing information related to student loans that has been furnished to a consumer reporting agency.

“(4) Monitoring compliance.—The Director of the Bureau shall monitor compliance with the rules issued under paragraph (1) and, if the Direc-
tor determines that a person may be in violation of such rules, take such supervisory or enforcement actions as the Director determines appropriate.

“(5) STUDENT LOAN DEFINED.—In this subsection, the term ‘student loan’ means—

“(A) a private education loan, as defined in section 140(a) of the Truth in Lending Act; and

“(B) a loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965.”; and

(2) in subsection (c)(2), by striking “subsection (b) of this section” and inserting “subsection (b) or (f) of this section (including any regulations issued thereunder)”.

SEC. 4. INSTITUTIONAL CERTIFICATION.

(a) IN GENERAL.—Section 128(e) of the Truth in Lending Act (15 U.S.C. 1638(e)) is amended—

(1) by striking paragraph (3) and inserting the following:

“(3) PRIVATE LOAN CERTIFICATION REQUIRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a private educational lender shall, before consummating any loan with re-
spect to a student attending an institution of higher education, obtain, from the institution of higher education the student intends to attend, a private loan certification as described in subparagraph (E).

“(B) EXCEPTION.—A private educational lender may consummate a private education loan with respect to a student attending an institution of higher education without obtaining a private loan certification as required in subparagraph (A) if, in , before the end of the 15-day period following the date on which the private educational lender requests a certification from such institution, such institution does not—

“(i) notify the private educational lender of the refusal of the institution to provide such certification; or

“(ii) notify the private educational lender that more time will be needed to comply with the request for the private loan certification.

“(C) PRIVATE LOAN CERTIFICATION CONTENTS.—Any private loan certification provided
by an institution of higher education pursuant to subparagraph (A) shall include—

“(i) the enrollment status of the student;

“(ii) the cost of attendance at the institution for the student as determined by the institution under part F of title IV of the Higher Education Act of 1965; and

“(iii) the difference between—

“(I) such cost of attendance; and

“(II) the total estimated amount of financial assistance for such student, including assistance received under title IV of the Higher Education Act of 1965.

“(D) CONSUMMATION OF LOAN WITHOUT CERTIFICATION.—If a private educational lender consummates a loan in violation of this subsection, such private education lender shall report the consummation of such loan in a manner determined by the Bureau.

“(E) INSTITUTION PROVISION OF CERTIFICATION.—If a private educational lender submits a request to an institution of higher education for a private loan certificate, such insti-
tution of higher education shall, not later than the end of the 15 day period beginning on the date such institution receives such request—

“(i) provide such certification;

“(ii) notify the private educational lender that the institution refuses to provide such certification; or

“(iii) notify the private educational lender that more time will be needed to comply with the request for the private loan certification.

“(F) INSTITUTION DISCLOSURES TO BORROWER.—Before providing a private loan certification to a private educational lender, an institution of higher education shall provide to the borrower notice of—

“(i) the amount of any Federal student assistance under title IV of the Higher Education Act of 1965 for which the borrower is eligible;

“(ii) the advantages of Federal student assistance under title IV of the Higher Education Act of 1965, including disclosure of the fixed interest rates, deferments,
flexible repayment options, loan forgiveness programs, and other protections;

“(iii) the right of the borrower to choose a private educational lender of their choice;

“(iv) the impact the private education loan for which the institution of higher education is submitting a private loan certification would have on the eligibility of the borrower for other financial assistance including Federal assistance under title IV of the Higher Education Act of 1965;

“(v) the right of the borrower to accept or reject a private education loan within the 30-day period following a private educational lender’s approval of the borrower’s application for a private education loan; and

“(vi) the right of the borrower to cancel any private educational loan within 3 days of the consummation of such loan.”;

(2) by redesignating paragraphs (9), (10), and (11) as paragraphs (12), (13), and (14), respectively; and—
(A) by inserting after paragraph (8) the following:

“(9) LOAN STATEMENTS FOR BORROWERS.—

“(A) IN GENERAL.—A private educational lender that consummates a private education loan with respect to a student attending an institution of higher education shall provide a loan statement to the borrower not less than once every 3 months during the period during which the student attends the institution of higher education.

“(B) CONTENTS OF LOAN STATEMENT.—Any loan statement provided to a borrower pursuant to subparagraph (A) shall—

“(i) report the amount of the borrower’s total remaining debt with the private educational lender, including any accrued but unpaid interest and capitalized interest; and

“(ii) report the amount of any increase in the borrower’s total debt with the private educational lender in the period following the most recent loan statement was provided to the borrower.
“(10) NOTIFICATION OF PRIVATE EDUCATIONAL LOAN.—Not later than 3 days after a private educational lender consummates a private education loan with respect to a student attending an institution of higher education, such private educational lender shall notify the institution of higher education the student is to attend of the amount of the private education loan the private educational lender has extended to such student.

“(11) ANNUAL REPORT.—Each private educational lender shall, each year, submit to the Bureau information about the private education loans such private educational lender has entered.”.

(b) DEFINITION OF PRIVATE EDUCATION LOAN.—

Section 140(a)(8)(A) of the Truth in Lending Act (15 U.S.C. 1650(a)(8)(A)) is amended—

(1) by redesignating clause (ii) as clause (iii);

(2) in clause (i), by striking “and” after the semicolon; and

(3) by inserting after clause (i) the following:

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

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(c) **REGULATIONS.**—Not later than 365 days after the date of enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall issue rules in final form to implement paragraphs (3), (9), and (11) of section 128(e) of the Truth in Lending Act, as amended by this section. Such regulations shall become effective not later than 6 months after their date of issuance.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect 1 year after the date of the enactment of this section.

(e) **REPORT.**—

(1) **IN GENERAL.**—Not later than 24 months after issuing rules under subsection (c), the Director of the Bureau of Consumer Financial Protection shall submit to the Congress a report about the compliance of private educational lenders and institutions of higher education with section 128(e) of the Truth in Lending Act, as amended by this section.

(2) **CONTENTS.**—Any report submitted to Congress pursuant to paragraph (1) shall include information about the degree to which institutions of higher education, in making disclosures to borrowers pursuant to section 128(e)(3)(F) of the Truth in Lending Act, effectively encourage borrowers to exhaust Federal assistance under title IV of the High-
er Education Act of 1965 before entering a private educational loan.