116TH CONGRESS  
1ST SESSION  
H. R. 3621  

To amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. s. ____________ introduced the following bill; which was referred to the Committee on __________________________

A BILL

To amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes.

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

2  SECTION 1. SHORT TITLE.

3  This Act may be cited as the “Student Borrower Credit Improvement Act”.

4  SEC. 2. FINDINGS.

5  Congress finds the following:
(1) The October 2014 report of the Consumer Financial Protection Bureau titled “Annual Report of the CFPB Student Loan Ombudsman” noted many private education loan borrowers, who sought to negotiate a modified repayment plan when they were experiencing a period of financial distress, were unable to get assistance from their loan holders, which often resulting in them defaulting on their loans. This pattern resembles the difficulty that a significant number of mortgage loan borrowers experienced when they sought to take responsible steps to work with their mortgage loan servicer to avoid foreclosure during the Great Recession.

(2) Although private student loan holders may allow a borrower to postpone payments while enrolled in school full-time, many limit this option to a certain time period, usually 48 to 66 months. This limited time period may not be sufficient for those who need additional time to obtain their degree or who want to continue their education by pursuing a graduate or professional degree. The Consumer Bureau found that borrowers who were unable to make payments often defaulted or had their accounts sent to collections before they were even able to graduate.
SEC. 3. REMOVES ADVERSE INFORMATION FOR CERTAIN
DEFAULTED OR DELINQUENT PRIVATE EDUCATION LOAN BORROWERS WHO DEMONSTRATE A HISTORY OF LOAN REPAYMENT.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B the following new section:

“§ 605C. Credit rehabilitation for distressed private education loan borrowers who demonstrate a history of loan repayment

“(a) IN GENERAL.—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a delinquent or defaulted private education loan of a borrower if the borrower has rehabilitated the borrower’s credit with respect to such loan by making 9 on-time monthly payments (in accordance with the terms and conditions of the borrower’s original loan agreement or any other repayment agreement that antedates the original agreement) during a period of 10 consecutive months on such loan after the date on which the delinquency or default occurred.

“(b) INTERRUPTION OF 10–MONTH PERIOD FOR CERTAIN CONSUMERS FACING UNUSUAL EXTENUATING LIFE EVENTS.—

“(1) PERMISSIBLE INTERRUPTION OF THE 10–MONTH PERIOD.—A borrower may stop making con-
secutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume. Such grace period shall be provided under the following circumstances:

“(A) With respect to a borrower who is a member of the Armed Forces entitled to incentive pay for the performance of hazardous duty under section 301 of title 37, United States Code, hazardous duty pay under section 351 of such title, or other assignment or special duty pay under section 352 of such title, the grace period shall begin on the date on which the borrower begins such assignment or duty and end on the date that is 6 months after the completion of such assignment or duty.

“(B) With respect to a borrower who resides in an area affected by a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the grace period shall begin on the date on which the major disaster or emergency was declared and end on the date that is 3 months after such date.

“(2) OTHER CIRCUMSTANCES.—
“(A) IN GENERAL.—The Bureau may allow a borrower demonstrating hardship to stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume.

“(B) BORROWER DEMONSTRATING HARDSHIP DEFINED.—In this paragraph, the term ‘borrower demonstrating hardship’ means a borrower or a class of borrowers who, as determined by the Bureau, is facing or has experienced unusual extenuating life circumstances or events that result in severe financial or personal barriers such that the borrower or class or borrowers does not have the capacity to comply with the requirements of subsection (a).

“(c) PROCEDURES.—The Bureau shall establish procedures to implement the credit rehabilitation described in this section, including—

“(1) the manner, content, and form for requesting credit rehabilitation;

“(2) the method for validating that the borrower is satisfying the requirements of subsection (a);
“(3) the manner, content, and form for notifying the private educational loan holder of—

“(A) the borrower’s participation in credit rehabilitation under subsection (a);

“(B) the requirements of subsection (d); and

“(C) the restrictions of subsection (f);

“(4) the manner, content, and form for notifying a consumer reporting agency of—

“(A) the borrower’s participation in credit rehabilitation under subsection (a); and

“(B) the requirements of subsection (d);

“(5) the method for verifying whether a borrower qualifies for the grace period described in subsection (b);

“(6) the manner, content, and form of notifying a consumer reporting agency and private educational loan holder that a borrower was granted a grace period; and

“(7) the method for a borrower to demonstrate that the borrower has successfully satisfied the requirements under subsection (a) and for notifying a consumer reporting agency and private educational loan holder.
“(d) Standardized Reporting Codes.—A consumer reporting agency shall develop standardized reporting codes for use by any private educational loan holder to identify and report a borrower’s status of making and completing 9 on-time monthly payments during a period of 10 consecutive months on a delinquent or defaulted private education loan, including codes specifying the grace period described in subsection (b) and any agreement to modify monthly payments. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer’s credit report upon the consumer’s completion of the rehabilitation period under this section.

“(e) Eliminating Barriers to Credit Rehabilitation.—A consumer report in which a private educational loan holder furnishes the standardized reporting codes described in subsection (d) to a consumer reporting agency, or in which a consumer reporting agency includes such codes, shall be deemed to comply with the requirements for accuracy and completeness required under sections 623(a)(1) and 630.

“(f) Prohibition on Civil Actions for Consumers Pursuing Rehabilitation.—A private educational loan holder may not commence or proceed with any civil action against a borrower with respect to a delin-
quent or defaulted loan during the period of rehabilitation if the loan holder has been notified—

“(1) under subsection (c)(3) of a borrower’s intent to participate in rehabilitation;

“(2) under subsection (c)(6) that a borrower was granted the grace period; or

“(3) under subsection (c)(7) that the borrower has successfully satisfied the requirements under subsection (a).

“(g) Rehabilitation Does Not Affect Statute of Limitations for Prior Debt.—Payments by a borrower on a private education loan that are made during and after a period of rehabilitation under this section shall have no effect on the statute of limitations with respect to payments that were due on such private education loan before the beginning of the period of rehabilitation.

“(h) Requirement for Payment Plans.—If a private educational loan holder enters into a payment plan with a borrower on a private education loan during a period of rehabilitation, such payment plan shall be reasonable and affordable, as determined by the Bureau.

“(i) Rules of Construction.—

“(1) Application to Subsequent Default or Delinquency.—A borrower who satisfies the requirements under subsection (a) shall be eligible for
additional credit rehabilitation described in subsection (a) with respect to any subsequent default or delinquency of the borrower on the rehabilitated private education loan.

“(2) INTERRUPTION OF THE CONSECUTIVE PAYMENT PERIOD REQUIREMENT.—The grace period described in subsection (b)(1)(A) shall not apply if any regulation promulgated under section 987 of title 10, United States Code (commonly known as the Military Lending Act), or the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) allows for a grace period or other interruption of the 10-month period described in subsection (a) and such grace period or other interruption is longer than the period described in subsection (b)(1)(A) or otherwise provides greater protection or benefit to the borrower who is a member of the Armed Forces.”.

(b) CONFORMING AMENDMENT.—Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)(1)) is amended by striking subparagraph (E).

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605B the following new item:

“605C. Credit rehabilitation for distressed private education loan borrowers who demonstrate a history of loan repayment.”.
SEC. 4. PRIVATE EDUCATION LOAN DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

“(bb) PRIVATE EDUCATION LOAN DEFINITIONS.—
The terms ‘private education loan’ and ‘private educational lender’ have the meanings given such terms, respectively, in section 140(a) of the Truth in Lending Act.”.

SEC. 5. GENERAL BUREAU RULEMAKING.

Except as otherwise provided, not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Bureau of Consumer Financial Protection shall issue final rules to implement the amendments made by this Act.