

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Truth in Lending Act to establish a postsecondary education loan borrower bill of rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Truth in Lending Act to establish a postsecondary education loan borrower bill of rights, 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 Loan Serv-
5 icing Reform and Consumer Protection Act”.

1 **SEC. 2. POSTSECONDARY EDUCATION LOAN BORROWER**

2 **BILL OF RIGHTS.**

3 Chapter 2 of the Truth in Lending Act (15 U.S.C.
4 1631 et seq.) is amended—

5 (1) by redesignating section 140A as section
6 140B;

7 (2) by inserting after section 140 the following:

8 **“§ 140A. Postsecondary education loan borrower bill**
9 **of rights**

10 “(a) DEFINITIONS.—In this paragraph:

11 “(1) BORROWER.—The term ‘borrower’ means
12 the person to whom a postsecondary education loan
13 is extended.

14 “(2) CHARGE OFF.—The term ‘charge off’
15 means charge to profit and loss, or subject to any
16 similar action.

17 “(3) COVERED LENDER, SERVICER, OR AS-
18 SIGNEE.—The term ‘covered lender, servicer, or as-
19 signee’ means—

20 “(A) an eligible lender (as defined under
21 section 435 of the Higher Education Act of
22 1965) of a loan made, insured, or guaranteed
23 under part B of title IV of the Higher Edu-
24 cation Act of 1965;

25 “(B) any entity with which the Secretary
26 of Education enters into a contract under sec-

1 tion 456 of the Higher Education Act of 1965
2 for origination, servicing, or collection described
3 in subsection (b) of such section 456 and is en-
4 gaged in the provision of, or offering, servicing,
5 or collections regardless of whether the Sec-
6 retary identifies the entity as a ‘servicer’ in
7 such contract;

8 “(C) a private educational lender (as de-
9 fined under section 140(a));

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

15 “(E) any other holder of a postsecondary
16 education loan other than the Secretary of Edu-
17 cation.

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

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

22 “(B) a loan made, insured, or guaranteed
23 under title IV of the Higher Education Act of
24 1965.

25 “(5) QUALIFIED WRITTEN REQUEST.—

1 “(A) IN GENERAL.—The term ‘qualified
2 written request’ means a written correspond-
3 ence of a borrower (other than notice on a pay-
4 ment medium supplied by the postsecondary
5 educational lender or servicer) transmitted by
6 mail, facsimile, or electronically through an
7 email address or website designated by the cov-
8 ered lender, servicer, or assignee to receive com-
9 munications from borrowers that—

10 “(i) includes, or otherwise enables the
11 covered lender, servicer, or assignee to
12 identify, the name and account of the bor-
13 rower; and

14 “(ii) includes, to the extent applica-
15 ble—

16 “(I) sufficient detail regarding
17 the information sought by the bor-
18 rower; or

19 “(II) a statement of the reasons
20 for the belief of the borrower that
21 there is an error regarding the ac-
22 count of the borrower.

23 “(B) CORRESPONDENCE DELIVERED TO
24 OTHER ADDRESSES.—

1 “(i) IN GENERAL.—A written cor-
2 respondence of a borrower is a qualified
3 written request if the written correspond-
4 ence is transmitted to and received by a
5 covered lender, servicer, or assignee at a
6 mailing address, facsimile number, email
7 address, or website address other than the
8 address or number designated by that cov-
9 ered lender, servicer, or assignee r to re-
10 ceive communications from borrowers but
11 the written correspondence meets the re-
12 quirements under clauses (i) and (ii) of
13 subparagraph (A).

14 “(ii) DUTY TO TRANSFER.—A covered
15 lender, servicer, or assignee shall, within a
16 reasonable period of time, transfer a writ-
17 ten correspondence of a borrower received
18 by the covered lender, servicer, or assignee
19 at a mailing address, facsimile number,
20 email address, or website address other
21 than the address or number designated by
22 that covered lender, servicer, or assignee to
23 receive communications from borrowers to
24 the correct address or appropriate office or

1 other unit of the covered lender, servicer,
2 or assignee.

3 “(iii) DATE OF RECEIPT.—A written
4 correspondence of a borrower transferred
5 in accordance with clause (i) shall be
6 deemed to be received by the covered lend-
7 er, servicer, or assignee on the date on
8 which the written correspondence is trans-
9 ferred to the correct address or appro-
10 priate office or other unit of the covered
11 lender, servicer, or assignee.

12 “(6) SERVICING.—The term ‘servicing’ means 1
13 or more of the following:

14 “(A) Receiving any scheduled periodic pay-
15 ments from a borrower or notification of such
16 payments pursuant to the terms of a postsec-
17 ondary education loan or contract governing the
18 servicing.

19 “(B) Applying payments to the borrower’s
20 account pursuant to the terms of the postsec-
21 ondary education loan or the contract governing
22 the servicing.

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

1 “(D) Communicating with a borrower re-
2 garding a postsecondary education loan on be-
3 half of the covered lender, servicer, or assignee.

4 “(E) Interactions with a borrower, includ-
5 ing activities to help prevent default on obliga-
6 tions arising from postsecondary education
7 loans, conducted to facilitate the activities de-
8 scribed in subparagraph (A) or (B).

9 “(b) SALE, TRANSFER, OR ASSIGNMENT.—If the
10 sale, other transfer, assignment, or transfer of servicing
11 obligations of a postsecondary education loan results in
12 a change in the identity of the party to whom the borrower
13 must send subsequent payments or direct any communica-
14 tions concerning the loan—

15 “(1) the transferor shall—

16 “(A) notify the borrower, in writing, in
17 simple and understandable terms, not fewer
18 than 45 days before transferring a legally en-
19 forceable right to receive payment from the bor-
20 rower on such loan, of—

21 “(i) the sale or other transfer, assign-
22 ment, or transfer of servicing obligations;

23 “(ii) the identity of the transferee;

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

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

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

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

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

13 “(B) forward any payment from a bor-
14 rower with respect to such postsecondary edu-
15 cation loan to the transferee, immediately upon
16 receiving such payment, during the 60-day pe-
17 riod beginning on the date on which the trans-
18 feror stops accepting payment of such postsec-
19 ondary education loan;

20 “(C) provide to the transferee all borrower
21 information and complete payment history in-
22 formation for any such postsecondary education
23 loans; and

24 “(2) the transferee shall—

1 “(A) notify the borrower, in writing, in
2 simple and understandable terms, not fewer
3 than 45 days before acquiring a legally enforce-
4 able right to receive payment from the borrower
5 on such loan, of—

6 “(i) the sale or other transfer, assign-
7 ment, or transfer of servicing obligations;

8 “(ii) the identity of the transferor;

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

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

15 “(v) the effective date of the sale,
16 transfer, assignment, or transfer of serv-
17 icing obligations;

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

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

22 “(B) accept as on-time and may not im-
23 pose any late fee or finance charge for any pay-
24 ment from a borrower with respect to such
25 postsecondary education loan that is forwarded

1 from the transferor during the 90-day period
2 beginning on the date on which the transferor
3 stops accepting payment, if the transferor re-
4 ceives such payment on or before the applicable
5 due date, including any grace period;

6 “(C) provide borrowers a simple, online
7 process for transferring existing electronic fund
8 transfer authority; and

9 “(D) honor any promotion or benefit avail-
10 able or granted to the borrower or advertised by
11 the previous owner or transferor of such post-
12 secondary education loan.

13 “(c) MATERIAL CHANGE IN MAILING ADDRESS OR
14 PROCEDURE FOR HANDLING PAYMENTS.—

15 “(1) IN GENERAL.—If a covered lender,
16 servicer, or assignee makes a change in the mailing
17 address, office, or procedures for handling payments
18 with respect to any postsecondary education loan,
19 the covered lender, servicer, or assignee shall clearly
20 and conspicuously notify the borrower in writing and
21 through the borrower’s preferred or designated
22 method of communication not less than 45 calendar
23 days in advance of such change.

24 “(2) BORROWER PROTECTION WINDOW.—If a
25 change described in paragraph (1) causes a delay in

1 the crediting of the account of the borrower made
2 during the 90-day period following the date on which
3 such change took effect, the covered lender, servicer,
4 or assignee may not impose on the borrower any
5 negative consequences, including negative credit re-
6 porting, lost eligibility in borrower benefits, late fees,
7 interest capitalization, or other financial injury.

8 “(3) LOAN FORGIVENESS PROGRAMS.—For pur-
9 poses of any public or private loan forgiveness pro-
10 gram that applies to a postsecondary education loan,
11 such program shall not be tolled during the 90-day
12 period following the date on which a change de-
13 scribed under paragraph (1) takes effect.

14 “(d) INTEREST RATE AND TERM CHANGES FOR CER-
15 TAIN POSTSECONDARY EDUCATION LOANS.—

16 “(1) NOTIFICATION REQUIREMENTS.—

17 “(A) IN GENERAL.—Except as provided in
18 paragraph (3), a covered lender, servicer, or as-
19 signee shall provide written notice to a borrower
20 of any material change in the terms of the post-
21 secondary education loan, including an increase
22 in the interest rate, not later than 45 days be-
23 fore the effective date of the change or increase.

24 “(B) MATERIAL CHANGES IN TERMS.—The
25 Bureau shall, by regulation, establish guidelines

1 for determining which changes in terms are ma-
2 terial under subparagraph (A).

3 “(2) LIMITS ON INTEREST RATE AND FEE IN-
4 CREASES APPLICABLE TO OUTSTANDING BAL-
5 ANCE.—Except as provided in paragraph (3), a cov-
6 ered lender, servicer, or assignee may not increase
7 the interest rate or other fee applicable to an out-
8 standing balance on a postsecondary education loan.

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

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

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

24 “(i) the interest rate applicable to a
25 category of transactions following any such

1 increase does not exceed the rate or fee
2 that applied to that category of trans-
3 actions prior to commencement of the
4 workout or temporary hardship arrange-
5 ment; and

6 “(ii) the covered lender, servicer, or
7 assignee has provided the borrower, prior
8 to the commencement of such arrange-
9 ment, with clear and conspicuous dislo-
10 sure of the terms of the workout or tem-
11 porary hardship arrangement (including
12 any increases due to such completion or
13 failure); and

14 “(C) an increase in interest rate due to a
15 provision included within the terms of a post-
16 secondary education loan that provides for a
17 lower interest rate based on the borrower’s
18 agreement to a prearranged plan that author-
19 izes recurring electronic funds transfers if—

20 “(i) the borrower withdraws the bor-
21 rower’s authorization of the prearranged
22 recurring electronic funds transfer plan;
23 and

24 “(ii) after withdrawal of the bor-
25 rower’s authorization and prior to increas-

1 ing the interest rate, the covered lender,
2 servicer, or assignee has provided the bor-
3 rower with clear and conspicuous diselo-
4 sure of the impending change in borrower’s
5 interest rate and a reasonable opportunity
6 to reauthorize the prearranged electronic
7 funds transfers plan.

8 “(e) PAYMENT INFORMATION.—

9 “(1) STATEMENT REQUIRED WITH EACH BILL-
10 ING CYCLE.—A covered lender, servicer, or assignee
11 for each borrower’s account that is being serviced by
12 the covered lender, servicer, or assignee and that in-
13 cludes a postsecondary education loan shall transmit
14 to the borrower, for each billing cycle during which
15 there is an outstanding balance in that account, a
16 billing statement that includes—

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

20 “(B) the outstanding balance in the ac-
21 count and each loan at the beginning of the bill-
22 ing cycle;

23 “(C) the total amount credited to the ac-
24 count and each loan during the billing cycle;

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

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

7 “(F) the address, email address, and
8 phone number of the covered lender, servicer, or
9 assignee to which the borrower may direct bill-
10 ing inquiries;

11 “(G) the amount of any payments or other
12 credits during the billing cycle that was applied
13 respectively to the principal and to interest for
14 each loan;

15 “(H) the manner, pursuant to subsection
16 (g), in which payments will be allocated among
17 multiple loans if the borrower does not provide
18 specific payment instructions;

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

21 “(J) information on how to file a com-
22 plaint with the Bureau and with the ombuds-
23 man designated pursuant to section 1035 of the
24 Consumer Financial Protection Act of 2010
25 and the Department of Education;

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

9 “(L) any other information determined ap-
10 propriate by rule of the Bureau.

11 “(2) DISCLOSURE OF PAYMENT DEADLINES.—

12 In the case of a postsecondary education loan ac-
13 count under which a late fee or charge may be im-
14 posed due to the failure of the borrower to make
15 payment on or before the due date for such pay-
16 ment, the billing statement required under para-
17 graph (1) with respect to the account shall include,
18 in a conspicuous location on the billing statement,
19 the date on which the payment is due or, if dif-
20 ferent, the date on which a late fee will be charged,
21 together with the amount of the late fee to be im-
22 posed if payment is made after that date.

23 “(f) APPLICATION OF PAYMENTS.—

24 “(1) APPLY PAYMENT ON DATE RECEIVED.—

25 Unless otherwise directed by the borrower, a covered

1 lender, servicer, or assignee shall apply payments to
2 a borrower's account on the date the payment is re-
3 ceived.

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

7 “(A) implements the requirements in this
8 section;

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

12 “(C) minimizes delinquencies, assignments
13 to collection, and charge offs;

14 “(D) requires covered lender, servicer, or
15 assignee to apply payments on the date re-
16 ceived; and

17 “(E) allows the borrower to instruct the
18 covered lender, servicer, or assignee to apply
19 payments in a manner preferred by the bor-
20 rower.

21 “(3) METHOD THAT BEST BENEFITS BOR-
22 ROWER.—In promulgating the rules under para-
23 graph (2), the Bureau shall choose the allocation
24 method that best benefits the borrower and is com-
25 patible with existing repayment options.

1 “(g) ALLOCATION OF PAYMENTS AMONG MULTIPLE
2 LOANS.—

3 “(1) ALLOCATION OF UNDERPAYMENTS.—Un-
4 less otherwise directed by the borrower, upon receipt
5 of a payment that does not satisfy the full amount
6 due for each postsecondary education loan, the cov-
7 ered lender, servicer, or assignee shall allocate
8 amounts in a manner that minimizes negative con-
9 sequences, including negative credit reporting and
10 late fees, and, where multiple loans share an equal
11 stage of delinquency, the covered lender, servicer, or
12 assignee shall first allocate payment to the postsec-
13 ondary education loan with the smallest monthly
14 payment, and then, after satisfying that monthly
15 payment, to each successive loan bearing the next
16 highest monthly payment, until the payment is ex-
17 hausted. A borrower may instruct or expressly au-
18 thorize a covered lender, servicer, or assignee to allo-
19 cate payments in a different manner.

20 “(2) ALLOCATION OF EXCESS AMOUNTS.—Un-
21 less otherwise directed by the borrower, upon receipt
22 of a payment exceeding the total amount due among
23 all the borrower’s postsecondary education loans, the
24 covered lender, servicer, or assignee shall satisfy the
25 amounts due for each loan, and then allocate

1 amounts in excess of the minimum payment amount
2 first to the postsecondary education loan balance
3 bearing the highest annual percentage rate, and
4 then, once that loan is repaid, to each successive
5 postsecondary education loan bearing the next high-
6 est annual percentage rate, until the payment is ex-
7 hausted. A borrower may instruct or expressly au-
8 thorize a covered lender, servicer, or assignee to allo-
9 cate such excess payments in a different manner.

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

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

20 “(5) METHOD THAT BEST BENEFITS BOR-
21 ROWER.—In promulgating the rules under para-
22 graph (4), the Director shall choose the allocation
23 method that best benefits the borrower and is com-
24 patible with existing repayment options.

25 “(h) LATE FEES.—

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

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

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

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

11 “(D) More than once with respect to a sin-
12 gle late payment.

13 “(E) The borrower fails to make a sin-
14 gular, non-successive regularly scheduled pay-
15 ment on the postsecondary education loan.

16 “(2) COORDINATION WITH SUBSEQUENT LATE
17 FEES.—No late fee may be charged to a borrower
18 for a postsecondary education loan relating to an in-
19 sufficient payment if the payment is made on or be-
20 fore the due date of the payment, or within any ap-
21 plicable grace period for the payment, if the insuffi-
22 ciency is attributable only to a late fee relating to
23 an earlier payment, and the payment is otherwise a
24 full payment for the applicable period.

1 “(3) PAYMENTS AT LOCAL BRANCHES.—If the
2 loan holder, in the case of a postsecondary education
3 loan account, is a financial institution that main-
4 tains a branch or office at which payments on any
5 such account are accepted from the borrower in per-
6 son, the date on which the borrower makes a pay-
7 ment on the account at such branch or office shall
8 be considered to be the date on which the payment
9 is made for purposes of determining whether a late
10 fee may be imposed due to the failure of the bor-
11 rower to make payment on or before the due date
12 for such payment.

13 “(i) BORROWER INQUIRIES.—

14 “(1) DUTY OF COVERED LENDER, SERVICER,
15 OR ASSIGNEE TO RESPOND TO BORROWER INQUIR-
16 IES.—

17 “(A) NOTICE OF RECEIPT OF REQUEST.—

18 If a borrower submits a qualified written re-
19 quest to the covered lender, servicer, or as-
20 signee for information relating to the servicing
21 of the postsecondary education loan, the cov-
22 ered lender, servicer, or assignee shall provide a
23 written response acknowledging receipt of the
24 qualified written request within 5 business days

1 unless any action requested by the borrower is
2 taken within such period.

3 “(B) ACTION WITH RESPECT TO IN-
4 QUIRY.—Not later than 30 business days after
5 the receipt from a borrower of a qualified writ-
6 ten request under subparagraph (A) and, if ap-
7 plicable, before taking any action with respect
8 to the qualified written request of the borrower,
9 the covered lender, servicer, or assignee shall—

10 “(i) make appropriate corrections in
11 the account of the borrower, including the
12 crediting of any late fees, and transmit to
13 the borrower a written notification of such
14 correction (which shall include the name
15 and toll-free or collect-call telephone num-
16 ber of a representative of the covered lend-
17 er, servicer, or assignee who can provide
18 assistance to the borrower);

19 “(ii) after conducting an investigation,
20 provide the borrower with a written expla-
21 nation or clarification that includes—

22 “(I) to the extent applicable, a
23 statement of the reasons for which the
24 covered lender, servicer, or assignee
25 believes the account of the borrower is

1 correct as determined by the covered
2 lender, servicer, or assignee; and

3 “(II) the name and toll-free or
4 collect-call telephone number of an in-
5 dividual employed by, or the office or
6 department of, the covered lender,
7 servicer, or assignee who can provide
8 assistance to the borrower; or

9 “(iii) after conducting an investiga-
10 tion, provide the borrower with a written
11 explanation or clarification that includes—

12 “(I) information requested by the
13 borrower or explanation of why the in-
14 formation requested is unavailable or
15 cannot be obtained by the covered
16 lender, servicer, or assignee; and

17 “(II) the name and toll-free or
18 collect-call telephone number of an in-
19 dividual employed by, or the office or
20 department of, the covered lender,
21 servicer, or assignee who can provide
22 assistance to the borrower.

23 “(C) LIMITED EXTENSION OF RESPONSE
24 TIME.—

1 “(i) IN GENERAL.—There may be 1
2 extension of the 30-day period described in
3 subparagraph (B) of not more than 15
4 days if, before the end of such 30-day pe-
5 riod, the covered lender, servicer, or as-
6 signee notifies the borrower of the exten-
7 sion and the reasons for the delay in re-
8 sponding.

9 “(ii) REPORTS TO BUREAU.—Each
10 covered lender, servicer, or assignee shall,
11 on an annual basis, report to the Bureau
12 the aggregate number of extensions sought
13 by the such covered lender, servicer, or as-
14 signee under clause (i).

15 “(2) PROTECTION AGAINST NEGATIVE CON-
16 SEQUENCES.—During the 60-day period beginning
17 on the date on which a covered lender, servicer, or
18 assignee receives a qualified written request from a
19 borrower relating to a dispute regarding payments
20 by the borrower, a covered lender, servicer, or as-
21 signee may not impose any negative consequences on
22 the borrower relating to the subject of the qualified
23 written request or to such period including—

24 “(A) providing negative credit information
25 to any consumer reporting agency (as defined

1 in section 603 of the Fair Credit Reporting
2 Act);

3 “(B) lost eligibility for a borrower benefit;

4 “(C) late fees;

5 “(D) interest capitalization; or

6 “(E) other financial injury.

7 “(j) REPAYMENT SPECIALISTS FOR AT-RISK BOR-
8 ROWERS.—

9 “(1) AT-RISK BORROWERS.—A covered lender,
10 servicer, or assignee shall designate an office or
11 other unit to act as a repayment specialist regarding
12 postsecondary education loans for—

13 “(A) any borrower who—

14 “(i) becomes 30 calendar days or
15 more delinquent under the postsecondary
16 education loan; or

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

20 “(B) any borrower who requests informa-
21 tion related to options to reduce or suspend the
22 borrower’s monthly payment, or otherwise indi-
23 cates that the borrower is experiencing or is
24 about to experience financial hardship or dis-
25 tress;

1 “(C) any borrower who has not completed
2 the program of study for which the borrower re-
3 ceived the loans;

4 “(D) any borrower who is enrolled in dis-
5 cretionary forbearance for more than 9 of the
6 previous 12 months;

7 “(E) any borrower who has rehabilitated
8 or consolidated 1 or more postsecondary edu-
9 cation loans out of default within the prior 24
10 months;

11 “(F) a borrower who seeks information re-
12 garding, seeks to enter an agreement for, or
13 seeks to resolve an issue under a repayment op-
14 tion that requires subsequent submission of
15 supporting documentation;

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

19 “(H) any borrower or segment of bor-
20 rowers determined by the Bureau, in consulta-
21 tion with the Secretary of Education, to be at
22 risk.

23 “(2) TRAINING.—Staff of the repayment spe-
24 cialist office or unit designated under paragraph (1)
25 shall—

1 “(A) receive rigorous, ongoing training re-
2 lated to available repayment plans, loan forgive-
3 ness, and cancellation and discharge options;
4 and

5 “(B) be trained to—

6 “(i) assess the borrower’s long-term
7 and short-term financial situation in dis-
8 cussing alternative repayment options with
9 borrowers;

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

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

21 “(3) TOLL-FREE TELEPHONE NUMBER.—Each
22 covered lender, servicer, or assignee shall maintain a
23 toll-free telephone number that shall—

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

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

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

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

17 “(k) ACTIONS WHEN BORROWER IS HAVING DIF-
18 FICULTY MAKING PAYMENT OR IS 60 DAYS DELIN-
19 QUENT.—

20 “(1) IN GENERAL.—Not more than 5 days after
21 a borrower notifies a covered lender, servicer, or as-
22 signee that the borrower is having difficulty making
23 payment or a borrower becomes 60 days delinquent
24 on a postsecondary education loan, the repayment

1 specialist office or unit designated under subsection
2 (j) shall—

3 “(A) complete a full review of the bor-
4 rower’s postsecondary education loan and make
5 a reasonable effort to obtain the information
6 necessary to determine—

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

13 “(ii) if the borrower is eligible for
14 servicemember or veteran benefits under
15 the Servicemembers Civil Relief Act (50
16 U.S.C. App. 501 et seq.) or other Federal
17 or State law related to postsecondary edu-
18 cation loans; and

19 “(iii) if the postsecondary education
20 loan is eligible for discharge by the Sec-
21 retary of Education;

22 “(B) make a good faith effort to establish
23 live contact with the borrower to provide the
24 borrower information about alternative repay-
25 ment options and benefits for which the bor-

1 rower is eligible, including all terms, conditions,
2 and fees or costs associated with such repay-
3 ment plan;

4 “(C) provide to the borrower in writing, in
5 simple and understandable terms, such informa-
6 tion required by subparagraph (B);

7 “(D) allow the borrower not less than 30
8 days to apply for an alternative repayment op-
9 tion or benefits, if eligible;

10 “(E) notify the borrower that a service-
11 member and veterans liaison designated under
12 subsection (l) is available to answer inquiries
13 about servicemember and veteran benefits re-
14 lated to postsecondary education loans, includ-
15 ing the toll-free telephone number to contact
16 the liaison; and

17 “(F) notify the borrower that a repayment
18 specialist office or unit designated under sub-
19 section (j) is available to answer inquiries re-
20 lated to alternative repayment options, includ-
21 ing the toll-free telephone number to contact
22 the specialist.

23 “(2) FORBEARANCE OR DEFERMENT.—If, after
24 receiving information about alternative repayment
25 options from the repayment specialist, a borrower

1 notifies the covered lender, servicer, or assignee that
2 a long-term alternative repayment option is not ap-
3 propriate, the covered lender, servicer, or assignee
4 may comply with this subsection by providing the
5 borrower, in writing, in simple and understandable
6 terms, information about short-term options to ad-
7 dress an anticipated short-term difficulty in making
8 payments, such as forbearance or deferment options,
9 including all terms, conditions, and fees or costs as-
10 sociated with such options.

11 “(3) NOTIFICATION PROCESS.—

12 “(A) IN GENERAL.—Each covered lender,
13 servicer, or assignee shall establish a process, in
14 accordance with paragraph (1), for a borrower
15 to notify the covered lender, servicer, or as-
16 signee that—

17 “(i) the borrower is having difficulty
18 making payments on a postsecondary edu-
19 cation loan; and

20 “(ii) a long-term alternative repay-
21 ment option is not appropriate.

22 “(B) BUREAU REQUIREMENTS.—The Di-
23 rector of the Bureau shall, based on consumer
24 testing and in consultation with the Secretary
25 of Education, promulgate rules establishing

1 minimum standards for covered lenders,
2 servicers, or assignees in carrying out the re-
3 quirements of this subsection and a model form
4 for borrowers to notify a covered lender,
5 servicer, or assignee of the information under
6 this subsection.

7 “(1) SERVICEMEMBERS, VETERANS, AND POSTSEC-
8 ONDARY EDUCATION LOANS.—

9 “(1) SERVICEMEMBER AND VETERANS LIAI-
10 SON.—Each covered lender, servicer, or assignee
11 shall designate an employee to act as the service-
12 member and veterans liaison who is responsible for
13 answering inquiries from servicemembers and vet-
14 erans, and is specially trained on servicemember and
15 veteran benefits under the Servicemembers Civil Re-
16 lief Act and other Federal or State laws related to
17 postsecondary education loans.

18 “(2) TOLL-FREE TELEPHONE NUMBER.—Each
19 covered lender, servicer, or assignee shall maintain a
20 toll-free telephone number that shall—

21 “(A) connect directly to the servicemember
22 and veterans liaison designated under para-
23 graph (1);

24 “(B) be made available on the primary
25 internet website of the covered lender, servicer,

1 or assignee and on monthly billing statements;
2 and

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

5 “(3) PROHIBITION ON CHARGE OFFS AND DE-
6 FAULT.—A covered lender, servicer, or assignee may
7 not charge off or report a postsecondary education
8 loan as delinquent, assigned to collection (internally
9 or by referral to a third party), in default, or
10 charged off to a credit reporting agency if the bor-
11 rower is on active duty in the Armed Forces (as de-
12 fined in section 101(d)(1) of title 10, United States
13 Code) serving in a combat zone (as designated by
14 the President under section 112(c) of the Internal
15 Revenue Code of 1986).

16 “(4) ADDITIONAL LIAISONS.—The Director, in
17 consultation with the Secretary, shall determine ad-
18 ditional entities with whom borrowers interact, in-
19 cluding guaranty agencies, that shall designate an
20 employee to act as the servicemember and veterans
21 liaison who is responsible for answering inquiries
22 from servicemembers and veterans and is specially
23 trained on servicemembers and veteran benefits and
24 option under the Servicemembers Civil Relief Act.

25 “(m) BORROWER’S LOAN HISTORY.—

1 “(1) IN GENERAL.—A covered lender, servicer,
2 or assignee shall make available in a secure elec-
3 tronic form usable by borrowers, or in writing upon
4 request, the loan history of each borrower for each
5 postsecondary education loan, separately desig-
6 nating—

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

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

11 “(ii) qualifying toward a loan forgive-
12 ness program and designating such pro-
13 gram;

14 “(B) loan history, including any
15 forbearances, deferrals, delinquencies, assign-
16 ment to collection, and charge offs;

17 “(C) annual percentage rate history;

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

23 “(E) amount due to pay off the out-
24 standing balance; and

1 “(F) any other items determined appro-
2 priate by rule of the Bureau.

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

8 “(n) ADDITIONAL SERVICING STANDARDS.—

9 “(1) PROHIBITIONS.—A covered lender,
10 servicer, or assignee may not—

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

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

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

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

24 “(E) fail to respond within 10 business
25 days to a request from a borrower to provide

1 the name, address, and other relevant contact
2 information of the loan holder of the borrower's
3 postsecondary education loan or, for a Federal
4 Direct Loan or a Federal Perkins Loan, the
5 Secretary of Education, or the institution of
6 higher education who made the loan, respec-
7 tively;

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

11 “(G) charge a convenience, processing, or
12 any other fee for payments made electronically
13 or by telephone;

14 “(H) fail to comply with any other obliga-
15 tion that the Bureau, by regulation, has deter-
16 mined to be appropriate to carry out the con-
17 sumer protection purposes of this paragraph; or

18 “(I) fail to perform other standard serv-
19 icing duties and functions.

20 “(2) BUSINESS HOURS.—Covered lenders,
21 servicers, or assignees shall be open for borrower in-
22 quiries and outreach—

23 “(A) during normal business hours, Mon-
24 day through Friday;

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

5 “(C) for not less than 6 hours on Satur-
6 day; and

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

8 “(3) ADDITIONAL STANDARDS.—The Bureau
9 may issue rules establishing additional servicing
10 standards to reduce delinquencies, assignment to col-
11 lections, defaults, and charge offs, and to ensure
12 borrowers understand their rights and obligations
13 related to their postsecondary education loans.

14 “(o) PROHIBITION ON LIMITING BORROWER LEGAL
15 ACTION BY COVERED LENDER, SERVICER, OR AS-
16 SIGNEE.—

17 “(1) WAIVER OF RIGHTS AND REMEDIES.—Any
18 rights and remedies available to borrowers against
19 covered lenders, servicers, or assignees may not be
20 waived by any agreement, policy, or form, including
21 by a mandatory predispute arbitration agreement or
22 class action waiver.

23 “(2) PREDISPUTE ARBITRATION AGREE-
24 MENTS.—No limitation or restriction on the ability
25 of a borrower to pursue a claim in court with respect

1 to a postsecondary education loan, including manda-
2 tory predispute arbitration agreements and class ac-
3 tion waivers, shall be valid or enforceable by a cov-
4 ered lender, servicer, or assignee, including as a
5 third-party beneficiary or by estoppel.

6 “(p) PREEMPTION.—Nothing in this paragraph may
7 be construed to preempt any provision of State law regard-
8 ing postsecondary education loans where the State law
9 provides stronger consumer protections.

10 “(q) CIVIL LIABILITY.—A covered lender, servicer, or
11 assignee that fails to comply with any requirement im-
12 posed under this paragraph shall be deemed a creditor
13 that has failed to comply with a requirement under this
14 chapter for purposes of liability under section 130 and
15 such covered lender, servicer, or assignee shall be subject
16 to the liability provisions under such section, including the
17 provisions under paragraphs (1), (2)(A)(i), (2)(B), and
18 (3) of section 130(a).

19 “(r) ELIGIBILITY FOR DISCHARGE.—The Bureau
20 shall issue rules requiring covered lender, servicer, or as-
21 signee to—

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

1 “(2) provide the borrower, in writing, in simple
2 and understandable terms, information about obtain-
3 ing such discharge.

4 “(s) MODEL DISCLOSURE FORM FOR ALTERNATIVE
5 REPAYMENT OPTIONS, FORBEARANCE, AND DEFERMENT
6 OPTIONS.—Not later than 2 years after the date of enact-
7 ment of this section, the Director of the Bureau shall,
8 based on consumer testing and in consultation with the
9 Secretary of Education, develop and issue, pursuant to a
10 formal rulemaking, model forms to allow borrowers to
11 compare alternative repayment options, forbearance, and
12 deferment options with the borrower’s existing repayment
13 plan with respect to a postsecondary education loan. In
14 developing such forms, the Director shall consider and
15 evaluate the following for inclusion:

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

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

20 “(3) The monthly payment amount.

21 “(4) The expected pay-off date.

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

23 “(6) Eligibility requirements, and how the bor-
24 rower can apply for an alternative repayment option,
25 forbearance, or deferment option.

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

6 “(t) STUDENT LOAN SERVICING INTERAGENCY
7 WORKING GROUP.—

8 “(1) IN GENERAL.—Not later than 30 days
9 after the date of enactment of this section, the Di-
10 rector of the Bureau shall establish a student loan
11 servicing interagency working group co-chaired by
12 the Director and the Secretary of Education and in-
13 cluding the Chief Operating Officer of the Office of
14 Federal Student Aid of the Department of Edu-
15 cation, the Director of the Office of Management
16 and Budget, the Secretary of the Treasury, and the
17 heads of any other relevant Federal departments or
18 agencies.

19 “(2) ADVISORY REPORT ON RULEMAKING.—

20 “(A) IN GENERAL.—Not later than 120
21 days after the date the working group under
22 paragraph (1) is established, the working group
23 shall publish an advisory report making rec-
24 ommendations to the Director of the Bureau re-
25 lated to the promulgation of regulations under

1 this section with respect to entities with which
2 the Secretary has entered into a contract under
3 section 456 of the Higher Education Act of
4 1965.

5 “(B) PUBLIC FEEDBACK.—Following the
6 publication of the advisory report required
7 under subparagraph (A), the working group
8 shall accept, for not less than 60 days, from the
9 public specific feedback on the recommenda-
10 tions included in the report.

11 “(3) PUBLICATION OF FINAL RECOMMENDA-
12 TIONS.—Not later than 30 days following the con-
13 clusion of the public feedback process described in
14 paragraph (2)(B), the working group shall publish
15 final recommendations for the Director of the Bu-
16 reau related to the promulgation of regulations
17 under this section.

18 “(4) POLICY DIRECTION TO FEDERAL STUDENT
19 AID.—The working group shall develop and propose
20 policy direction for the Secretary of Education to
21 issue to the Office of Federal Student Aid, through
22 which the Office of Federal Student Aid shall incor-
23 porate, into contracts awarded under section 456 of
24 the Higher Education Act of 1965, applicable re-

1 requirements and standards promulgated under this
2 section.

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

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

12 “(B) evaluate the Office of Federal Stu-
13 dent Aid’s implementation of policy direction
14 developed pursuant to paragraph (4);

15 “(C) develop and implement an oversight
16 plan to ensure compliance by entities with
17 which the Secretary has entered into a contract
18 under section 456 of the Higher Education Act
19 of 1965 with policy direction developed under
20 paragraph (4) and regulations promulgated
21 under this section; and

22 “(D) undertake other activities to improve
23 coordination among the members of the work-
24 ing group as it relates to the Secretary’s admin-
25 istration of the Federal Direct Loan Program.

1 “(6) RULE OF CONSTRUCTION.—Nothing in
2 this subsection may be construed to alter, limit, or
3 restrict the Bureau’s obligations under chapter 5 of
4 title 5, United States Code (commonly known as the
5 ‘Administrative Procedures Act’), including the Di-
6 rector’s obligation to provide notice, solicit public
7 comment, and respond to such comment when
8 issuing regulations.”; and
9 (3) in the table of contents, by striking the item
10 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.”.