

111TH CONGRESS
1ST SESSION

S. 1541

To amend title IV of the Higher Education Act of 1965 to authorize private education loan refinancing under the Federal student loan program.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2009

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

A BILL

To amend title IV of the Higher Education Act of 1965 to authorize private education loan refinancing under the Federal student loan program.

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; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Private Student Loan Debt Swap Act of 2009”.

6 (b) PURPOSE.—It is the purpose of this Act to estab-
7 lish a temporary private student loan debt swap program
8 to assist eligible borrowers in refinancing all or a portion
9 of their private education debt with less costly loans with
10 the same terms and conditions as Federal direct loans.

1 **SEC. 2. PRIVATE EDUCATION LOAN REFINANCING.**

2 Title IV of the Higher Education Act of 1965 (20
3 U.S.C. 1070 et seq.) is amended by adding at the end
4 the following:

5 **“PART J—PRIVATE EDUCATION LOAN**
6 **REFINANCING**

7 **“SEC. 499E. PRIVATE EDUCATION LOAN REFINANCING.**

8 “(a) IN GENERAL.—

9 “(1) AUTHORITY.—The Secretary shall carry
10 out a Private Education Loan Debt Swap program
11 in accordance with this section.

12 “(2) AVAILABILITY OF FUNDS.—There are
13 hereby made available, in accordance with the provi-
14 sions of this section, such sums as may be necessary
15 to make loans under this section through refinancing
16 to all individuals eligible to receive private education
17 loan refinancing under this section.

18 “(3) PRIVATE EDUCATION LOAN.—In this sec-
19 tion, the term ‘private education loan’ has the mean-
20 ing given the term in section 140 of the Truth in
21 Lending Act (15 U.S.C. 1650).

22 “(b) ELIGIBLE DEBT SWAP LOAN BORROWER.—An
23 individual shall be eligible to receive private education loan
24 refinancing under this section if the individual—

25 “(1)(A) was, at any time after July 1, 1994, el-
26 igible to obtain an unsubsidized Federal Stafford

1 Loan under section 428H for a period of under-
2 graduate or graduate enrollment;

3 “(B) incurred at least 1 private education loan
4 for such period of enrollment;

5 “(C) is not enrolled in an eligible institution on
6 at least a half-time basis;

7 “(D) remains indebted on at least 1 private
8 education loan eligible for refinancing under this
9 section and—

10 “(i) has never obtained an unsubsidized
11 Federal Stafford Loan under section 428H; or

12 “(ii) has borrowed an aggregate amount
13 under the unsubsidized Federal Stafford Loan
14 program under section 428H that is less than
15 the maximum aggregate amount indicated
16 under section 428H(d) for loans first disbursed
17 on or after July 1, 2008;

18 “(E) is not in default on a loan made, insured,
19 or guaranteed under this title;

20 “(F) has made not less than 2 consecutive pay-
21 ments on the private education loan to be refinanced
22 and is not more than 90 days delinquent on such
23 loan; and

24 “(G) has not previously obtained refinancing
25 under this section; or

1 “(2)(A) was, at any time after July 1, 2006, el-
 2 igible to obtain a Federal PLUS Loan under section
 3 428B for a period of graduate or professional enroll-
 4 ment;

5 “(B) incurred at least 1 private education loan
 6 for such period of enrollment;

7 “(C) is not in default on a loan made, insured,
 8 or guaranteed under this title;

9 “(D) has made not less than 2 consecutive pay-
 10 ments on the private education loan to be refinanced
 11 and is not more than 90 days delinquent on such
 12 loan;

13 “(E) does not have an adverse credit history;
 14 and

15 “(F) has not previously obtained refinancing
 16 under this section.

17 “(c) REFINANCING UNDER THE DEBT SWAP LOAN
 18 PROGRAM.—

19 “(1) IN GENERAL.—The Secretary shall refi-
 20 nance or make a payment on a private education
 21 loan in accordance with this subsection for an indi-
 22 vidual who is eligible for private education loan refi-
 23 nancing pursuant to subsection (b).

24 “(2) TYPES OF LOANS THAT SHALL BE REFI-
 25 NANCED.—A private education loan is eligible to be

1 refinanced under this subsection if the loan was in-
2 curred—

3 “(A) after July 1, 1994, and before July
4 1, 2010; and

5 “(B) to pay the cost of attendance for en-
6 rollment in an eligible program at an institution
7 of higher education eligible to participate in
8 programs under this title.

9 “(3) LOAN LIMITS.—The maximum amount of
10 a private education loan that may be refinanced
11 under this subsection is—

12 “(A) for an individual described in sub-
13 section (b)(1), an amount equal to the sum of
14 unpaid principal, accrued interest, and late
15 charges of all private education loans eligible
16 under paragraph (2) incurred by such indi-
17 vidual not to exceed the maximum aggregate
18 amount of unsubsidized Federal Stafford Loans
19 under section 428H(d) for loans first disbursed
20 on or after July 1, 2008, applicable to an un-
21 dergraduate student under such section if the
22 individual incurred such loan to enroll in an un-
23 dergraduate program or applicable to a grad-
24 uate student under such section if the indi-
25 vidual incurred such loan to enroll in a grad-

uate program, less any amount previously borrowed by such individual pursuant to section 428 or part D; and

“(B) for an individual described in subsection (b)(2), an amount equal to the sum of unpaid principal, accrued interest, and late charges of all private education loans eligible under paragraph (2) incurred by such individual, less any amount previously borrowed by such individual pursuant to section 428B for such period of enrollment in a graduate or professional program.

“(4) INTEREST RATE.—The interest rate for a private education loan refinanced under this subsection shall be—

“(A) for an individual described in subsection (b)(1), the same interest rate applicable to an unsubsidized Federal Stafford Loan; and

“(B) for an individual described in subsection (b)(2), the same interest rate applicable to a Federal Direct PLUS loan.

“(5) REPAYMENT TERMS.—A private education debt swap loan made under this subsection through refinancing shall have the same repayment terms,

1 conditions, and benefits as Federal Direct Consolida-
2 tion Loans.

3 “(6) TERMINATION OF AUTHORITY.—The au-
4 thority to refinance private education loans under
5 this subsection expires on July 1, 2011, or the date
6 that is 1 year after certification by the Secretary to
7 Congress that the debt swap loan program pursuant
8 to this section is fully operational, whichever date is
9 later.

10 “(7) LOAN APPLICATION AND PROMISSORY
11 NOTE.—The Secretary shall develop and distribute a
12 standard application and promissory note and loan
13 disclosure form for loans made under this section
14 through refinancing.

15 “(8) LOAN DISBURSEMENT.—Proceeds of any
16 loan made under this section shall be paid by the
17 Secretary directly to the holder of the private edu-
18 cation loan being refinanced for the purpose of dis-
19 charging or reducing such private education loan
20 debt on behalf of the borrower, subject to repayment
21 terms under this section.

22 “(d) PUBLIC AWARENESS CAMPAIGN.—

23 “(1) IN GENERAL.—The Secretary shall carry
24 out a national awareness campaign on the avail-

1 ability and benefits of refinancing private education
2 loans under this section.

3 “(2) CONTENT OF CAMPAIGN.—The campaign
4 described in paragraph (1) shall include—

5 “(A) explaining the benefits of borrowing
6 through the Federal student loan programs au-
7 thorized under this title compared to private
8 loans; and

9 “(B) information on all of the repayment
10 options, loan forgiveness opportunities, low-
11 fixed interest rates and other benefits of such
12 Federal student loan programs.

13 “(e) REPORT TO CONGRESS.—The Secretary shall re-
14 port to Congress annually on the volume and repayment
15 status of private education loans refinanced under this
16 section.”.

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