

116TH CONGRESS
2D SESSION

S. 3745

To direct the Secretary of Education to provide relief to borrowers of student loans for whom the Department of Education found misrepresentation by the institution of higher education or a State attorney general has asserted a right to borrower defense discharge.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2020

Mr. DURBIN (for himself, Mr. BROWN, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To direct the Secretary of Education to provide relief to borrowers of student loans for whom the Department of Education found misrepresentation by the institution of higher education or a State attorney general has asserted a right to borrower defense discharge.

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 “Coronavirus Emer-
5 gency Borrower Defense Act of 2020” or the “Coronavirus
6 E-BD Act of 2020”.

1 **SEC. 2. EMERGENCY BORROWER DEFENSE.**

2 (a) EMERGENCY BORROWER DEFENSE.—An eligible
3 borrower, or parent borrower who took out an eligible loan
4 on behalf of an eligible borrower, shall be entitled to relief
5 on such loan pursuant to this section.

6 (b) ELIGIBLE BORROWER; ELIGIBLE LOAN.—In this
7 section:

8 (1) ELIGIBLE BORROWER.—

9 (A) IN GENERAL.—The term “eligible bor-
10 rower” means—

11 (i) a borrower covered by Department
12 of Education findings made on or before
13 the date of enactment of this section
14 against an institution of higher education
15 for job placement rate misrepresentation;

16 (ii) a borrower on whose behalf a
17 State attorney general has asserted a right
18 to borrower defense discharge if the asser-
19 tion was made by the State attorney gen-
20 eral to the Secretary of Education on or
21 before the date of enactment of this sec-
22 tion; or

23 (iii) a borrower who—

24 (I) was subject to a misrepresen-
25 tation made by the institution of high-
26 er education that the borrower at-

1 tended related to guaranteed employ-
2 ment or transferability of credits
3 where such misrepresentation was es-
4 tablished by the Department of Edu-
5 cation in findings made on or before
6 the date of enactment of this section;
7 and

8 (II) has asserted being subject to
9 such misrepresentation in a borrower
10 defense application to the Secretary of
11 Education.

12 (B) ELIGIBILITY.—A borrower—

13 (i) described in clause (i) or (ii) of
14 subparagraph (A), shall be an eligible bor-
15 rower whether or not the borrower has ap-
16 plied for borrower defense and whether or
17 not the borrower’s claim has been adju-
18 dicated, if the borrower has not previously
19 received complete relief on the eligible loan
20 based on the borrower defense; and

21 (ii) described in subparagraph (A)(iii),
22 shall be an eligible borrower whether or
23 not the borrower’s claim has been adju-
24 dicated, so long as they have not previously
25 received complete relief on their Federal

1 student loans based on their borrower de-
2 fense.

3 (2) ELIGIBLE LOAN.—The term “eligible loan”
4 means a loan made, insured, or guaranteed under
5 part B or D of title IV of the Higher Education Act
6 of 1965 (20 U.S.C. 1071 et seq.; 1087a et seq.).

7 (c) RELIEF.—With respect to—

8 (1) an eligible borrower described in clause (i)
9 or (ii) of subsection (b)(1)(A), or an eligible bor-
10 rower described in subsection (b)(1)(A)(iii) who ap-
11 plied for borrower defense prior to the date of enact-
12 ment of this section, the Secretary of Education
13 shall—

14 (A) not later than 30 days after the date
15 of enactment of this section, discharge the bor-
16 rower, or parent borrower who took out an eli-
17 gible loan on behalf of such borrower, of the full
18 obligation to repay the eligible loan (including
19 associated interest, costs, and fees that the bor-
20 rower or parent borrower would otherwise be
21 obligated to pay);

22 (B) not later than 45 days after the date
23 of enactment of this section, reimburse the bor-
24 rower, or parent borrower who took out an eli-
25 gible loan on behalf of such borrower, for

1 amounts paid toward the loan voluntarily or
2 through enforced collection;

3 (C) not later than 60 days after the date
4 of enactment of this section, report the dis-
5 charge under this section to all consumer re-
6 porting agencies to which the Secretary pre-
7 viously reported the status of the loan, so as to
8 delete all adverse credit history assigned to the
9 loan; and

10 (D) not later than 60 days after the date
11 of enactment of this section, no longer consider
12 a borrower, or parent borrower who took out a
13 loan on behalf of such borrower, who has de-
14 faulted on a loan discharged under this section
15 to be in default on the discharged loan; and

16 (2) an eligible borrower described in subsection
17 (b)(1)(A)(iii) who did not apply for borrower defense
18 prior to the date of enactment of this section, the
19 Secretary of Education shall—

20 (A) not later than 30 days after the date
21 such borrower applies for borrower defense, dis-
22 charge the borrower, or parent borrower who
23 took out an eligible loan on behalf of such bor-
24 rower, of the full obligation to repay the eligible
25 loan (including associated interest, costs, and

1 fees that the borrower or parent borrower would
2 otherwise be obligated to pay);

3 (B) not later than 45 days after such bor-
4 rower applies for borrower defense, reimburse
5 the borrower, or parent borrower who took out
6 an eligible loan on behalf of such borrower, for
7 amounts paid toward the loan voluntarily or
8 through enforced collection;

9 (C) not later than 60 days after such bor-
10 rower applies for borrower defense, report the
11 discharge under this section to all consumer re-
12 porting agencies to which the Secretary pre-
13 viously reported the status of the loan, so as to
14 delete all adverse credit history assigned to the
15 loan; and

16 (D) not later than 60 days after such bor-
17 rower applies for borrower defense, no longer
18 consider a borrower, or parent borrower who
19 took out a loan on behalf of such borrower, who
20 has defaulted on a loan discharged under this
21 section to be in default on the discharged loan.

22 (d) NOTIFICATION.—With respect to—

23 (1) an eligible borrower described in clause (i)
24 or (ii) of subsection (b)(1)(A), an eligible borrower
25 described in subsection (b)(1)(A)(iii) who applied for

1 borrower defense prior to the date of enactment of
2 this section, or a parent borrower who took out an
3 eligible loan on behalf of such an eligible borrower,
4 the Secretary of Education shall, not later than 20
5 days after the date of enactment of this section, no-
6 tify such borrower or parent borrower in writing
7 of—

8 (A) the relief to which the borrower is enti-
9 tled pursuant to subsection (c);

10 (B) the time in which such relief will be
11 provided pursuant to subsection (c);

12 (C) the borrower's eligibility to receive as-
13 sistance under title IV of the Higher Education
14 Act of 1965 (20 U.S.C. 1070 et seq.) after re-
15 ceiving relief pursuant to subsection (c); and

16 (D) any further relief to such borrower or
17 parent borrower as the Secretary of Education
18 determines is appropriate; and

19 (2) an eligible borrower described in subsection
20 (b)(1)(A)(iii) who did not apply for borrower defense
21 prior to the date of enactment of this section, or a
22 parent borrower who took out an eligible loan on be-
23 half of such an eligible borrower, the Secretary of
24 Education shall, not later than 20 days after such

1 borrower applies for borrower defense, notify such
2 borrower or parent borrower in writing of—

3 (A) the relief to which the borrower is enti-
4 tled pursuant to subsection (c);

5 (B) the time in which such relief will be
6 provided pursuant to subsection (c);

7 (C) the borrower's eligibility to receive as-
8 sistance under title IV of the Higher Education
9 Act of 1965 (20 U.S.C. 1070 et seq.) after re-
10 ceiving relief pursuant to subsection (c); and

11 (D) any further relief to such borrower or
12 parent borrower as the Secretary of Education
13 determines is appropriate.

14 (e) INSTITUTIONAL ACCOUNTABILITY.—For a dis-
15 charge granted under this section, the Secretary of Edu-
16 cation shall, as applicable, initiate an appropriate pro-
17 ceeding to require the institution of higher education
18 whose act or omission resulted in the discharge to repay
19 to the Secretary of Education the amount discharged
20 whether by offset, claim on a letter of credit, or other pro-
21 tection provided by the institution of higher education.

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