

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **S. 1098**

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## **AN ACT**

To amend the Higher Education Act of 1965 to authorize  
borrowers to separate joint consolidation loans.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Joint Consolidation  
3 Loan Separation Act”.

4 **SEC. 2. SEPARATING JOINT CONSOLIDATION LOANS.**

5 (a) IN GENERAL.—Section 455(g) of the Higher  
6 Education Act of 1965 (20 U.S.C. 1087e(g)) is amend-  
7 ed—

8 (1) by striking “A borrower” and inserting the  
9 following:

10 “(1) IN GENERAL.—A borrower”; and

11 (2) by adding at the end the following:

12 “(2) SEPARATING JOINT CONSOLIDATION  
13 LOANS.—

14 “(A) IN GENERAL.—

15 “(i) AUTHORIZATION.—A married  
16 couple, or 2 individuals who were pre-  
17 viously a married couple, and who received  
18 a joint consolidation loan as such married  
19 couple under subparagraph (C) of section  
20 428C(a)(3) (as such subparagraph was in  
21 effect on June 30, 2006), may apply to the  
22 Secretary, in accordance with subpara-  
23 graph (C) of this paragraph, for each indi-  
24 vidual borrower in the married couple (or  
25 previously married couple) to receive a sep-

1           arate Federal Direct Consolidation Loan  
2           under this part.

3           “(ii) ELIGIBILITY FOR BORROWERS IN  
4           DEFAULT.—Notwithstanding any other  
5           provision of this Act, a married couple, or  
6           2 individuals who were previously a mar-  
7           ried couple, who are in default on a joint  
8           consolidation loan may be eligible to re-  
9           ceive a separate Federal Direct Consolida-  
10          tion Loan under this part in accordance  
11          with this paragraph.

12          “(B) SECRETARIAL REQUIREMENTS.—Not-  
13          withstanding section 428C(a)(3)(A) or any  
14          other provision of law, for each individual bor-  
15          rower who applies under subparagraph (A), the  
16          Secretary shall—

17                  “(i) make a separate Federal Direct  
18                  Consolidation Loan under this part that—

19                          “(I) shall be for an amount equal  
20                          to the product of—

21                                  “(aa) the unpaid principal  
22                                  and accrued unpaid interest of  
23                                  the joint consolidation loan (as of  
24                                  the date that is the day before  
25                                  such separate consolidation loan

1 is made) and any outstanding  
2 charges and fees with respect to  
3 such loan; and

4 “(bb) the percentage of the  
5 joint consolidation loan attrib-  
6 utable to the loans of the indi-  
7 vidual borrower for whom such  
8 separate consolidation loan is  
9 being made, as determined—

10 “(AA) on the basis of  
11 the loan obligations of such  
12 borrower with respect to  
13 such joint consolidation loan  
14 (as of the date such joint  
15 consolidation loan was  
16 made); or

17 “(BB) in the case in  
18 which both borrowers re-  
19 quest, on the basis of pro-  
20 portions outlined in a di-  
21 vorce decree, court order, or  
22 settlement agreement; and

23 “(II) has the same rate of inter-  
24 est as the joint consolidation loan (as  
25 of the date that is the day before such

1 separate consolidation loan is made);

2 and

3 “(ii) in a timely manner, notify each  
4 individual borrower that the joint consoli-  
5 dation loan had been repaid and of the  
6 terms and conditions of their new loans.

7 “(C) APPLICATION FOR SEPARATE DIRECT  
8 CONSOLIDATION LOAN.—

9 “(i) JOINT APPLICATION.—Except as  
10 provided in clause (ii), to receive separate  
11 consolidation loans under this part, both  
12 individual borrowers in a married couple  
13 (or previously married couple) shall jointly  
14 apply under subparagraph (A).

15 “(ii) SEPARATE APPLICATION.—An  
16 individual borrower in a married couple (or  
17 previously married couple) may apply for a  
18 separate consolidation loan under subpara-  
19 graph (A) separately and without regard to  
20 whether or when the other individual bor-  
21 rower in the married couple (or previously  
22 married couple) applies under subpara-  
23 graph (A), in a case in which—

1           “(I) the individual borrower cer-  
2           tifies to the Secretary that such bor-  
3           rower—

4                   “(aa) has experienced an act  
5                   of domestic violence (as defined  
6                   in section 40002 of the Violence  
7                   Against Women Act of 1994 (34  
8                   U.S.C. 12291) from the other in-  
9                   dividual borrower;

10                   “(bb) has experienced eco-  
11                   nomic abuse (as defined in sec-  
12                   tion 40002 of the Violence  
13                   Against Women Act of 1994 (34  
14                   U.S.C. 12291) from the other in-  
15                   dividual borrower; or

16                   “(cc) is unable to reasonably  
17                   reach or access the loan informa-  
18                   tion of the other individual bor-  
19                   rower; or

20           “(II) the Secretary determines  
21           that authorizing each individual bor-  
22           rower to apply separately under sub-  
23           paragraph (A) would be in the best  
24           fiscal interests of the Federal Govern-  
25           ment.



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