

117TH CONGRESS  
1ST SESSION

# S. 1098

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

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IN THE SENATE OF THE UNITED STATES

APRIL 13, 2021

Mr. WARNER (for himself, Mr. RUBIO, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Joint Consolidation  
5 Loan Separation Act”.

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

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

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

3           “(1) IN GENERAL.—A borrower”;

4           (2) in the first sentence, insert “(other than a  
5 Federal Direct Consolidation Loan separated from a  
6 joint consolidation loan under paragraph (2) of this  
7 subsection)” after “under this part”; and

8           (3) by adding at the end the following:

9           “(2) SEPARATING JOINT CONSOLIDATION  
10 LOANS.—

11           “(A) IN GENERAL.—A married couple, or  
12 2 individuals who were previously a married  
13 couple, and who received a joint consolidation  
14 loan as such married couple under subpara-  
15 graph (C) of section 428C(a)(3) (as such sub-  
16 paragraph was in effect on June 30, 2006),  
17 may apply to the Secretary, in accordance with  
18 subparagraph (C) of this paragraph, for each  
19 individual borrower in the married couple (or  
20 previously married couple) to receive a separate  
21 Federal Direct Consolidation Loan under this  
22 part.

23           “(B) SECRETARIAL REQUIREMENTS.—Not-  
24 withstanding section 428C(a)(3)(A) or any  
25 other provision of law, for each individual bor-

1           rower who applies under subparagraph (A), the  
2           Secretary shall—

3                   “(i) award a separate Federal Direct  
4           Consolidation Loan under this part that—

5                           “(I) shall be for an amount equal  
6           to the product of—

7                                   “(aa) the unpaid principal  
8                                   and accrued unpaid interest of  
9                                   the joint consolidation loan (as of  
10                                  the date that is the day before  
11                                  such separate consolidation loan  
12                                  is made); and

13                                   “(bb) the percentage of the  
14                                  joint consolidation loan attrib-  
15                                  utable to the loans of the indi-  
16                                  vidual borrower for whom such  
17                                  separate consolidation loan is  
18                                  being made, as determined on the  
19                                  basis of the loan obligations of  
20                                  such borrower with respect to  
21                                  such joint consolidation loan (as  
22                                  of the date such joint consolida-  
23                                  tion loan was made); and

24                                   “(II) has the same rate of inter-  
25           est as the joint consolidation loan (as

1 of the date that is the day before such  
2 separate consolidation loan is made);  
3 and

4 “(ii) in order to discharge such indi-  
5 vidual borrower from any remaining obli-  
6 gation with respect to the percentage of  
7 the joint consolidation loan described in  
8 clause (i)(I)(bb)—

9 “(I) cancel the outstanding bal-  
10 ance of interest and principal due on  
11 such percentage, in the case of such a  
12 loan held by the Secretary; and

13 “(II) through the holder of the  
14 loan, assume the obligation to repay  
15 the outstanding balance of interest  
16 and principal due on such percentage,  
17 in the case of such a loan made, in-  
18 sured, or guaranteed under part B;

19 “(iii) ensure that such individual bor-  
20 rower shall not be held liable for the repay-  
21 ment of the percentage of the joint consoli-  
22 dation loan that is not described in clause  
23 (i)(I)(bb);

24 “(iv) in a case in which a payment  
25 was made under section 455(m)(1)(A) on

1 the joint consolidation loan during a period  
2 in which the individual borrower for whom  
3 such separate consolidation loan is being  
4 made was employed in a public service job  
5 described in section 455(m)(1)(B), treat  
6 such payment as if such payment were  
7 made on the separate consolidation loan;  
8 and

9 “(v) in a case in which a payment was  
10 made under an income contingent repay-  
11 ment plan or an income-based repayment  
12 plan described in subparagraph (D) or (E)  
13 of section 455(d)(1), respectively, on the  
14 joint consolidation loan, treat such pay-  
15 ment as if such payment were made on  
16 such separate consolidation loan.

17 “(C) APPLICATION FOR SEPARATE DIRECT  
18 CONSOLIDATION LOAN.—

19 “(i) JOINT APPLICATION.—Except as  
20 provided in clause (ii), to receive separate  
21 consolidation loans under this part, both  
22 individual borrowers in a married couple  
23 (or previously married couple) shall jointly  
24 apply under subparagraph (A).

1           “(ii) SEPARATE APPLICATION.—An  
2 individual borrower in a married couple (or  
3 previously married couple) may apply for a  
4 separate consolidation loan under subpara-  
5 graph (A) separately and without regard to  
6 whether or when the other individual bor-  
7 rower in the married couple (or previously  
8 married couple) applies under subpara-  
9 graph (A), in a case in which—

10           “(I) the individual borrower has  
11 experienced from the other individual  
12 borrower—

13           “(aa) domestic violence (as  
14 defined in section 40002(a) of  
15 the Violence Against Women Act  
16 of 1994 (42 U.S.C. 13925 (a)));  
17 or

18           “(bb) economic abuse (in-  
19 cluding behaviors that control  
20 such borrower’s ability to ac-  
21 quire, use, and maintain access  
22 to money, credit, or the joint fi-  
23 nancial obligations of both bor-  
24 rowers);

1                   “(II) the individual borrower cer-  
 2                   tifies, on a form approved by the Sec-  
 3                   retary, that such borrower is unable  
 4                   to reasonably reach or access the loan  
 5                   information of the other individual  
 6                   borrower; or

7                   “(III) the Secretary determines  
 8                   that authorizing each individual bor-  
 9                   rower to apply separately under sub-  
 10                  paragraph (A) would be in the best  
 11                  fiscal interests of the Federal Govern-  
 12                  ment.”.

13           (b)           CONFORMING            AMENDMENT.—Section  
 14 428C(a)(3)(B)(i)(V) of the Higher Education Act of 1965  
 15 (20 U.S.C. 1078–3(3)(B)(i)(V)) is amended—

- 16                   (1) by striking “or” at the end of item (bb);  
 17                   (2) by striking the period at the end of item  
 18           (cc) and inserting “; or”; and  
 19                   (3) by adding at the end the following:

20                                   “(dd) for the purpose of sep-  
 21                                   arating a joint consolidation loan  
 22                                   into 2 separate Federal Direct  
 23                                   Consolidation Loans under sec-  
 24                                   tion 455(g)(2), except that such  
 25                                   separated Federal Direct Consoli-

1                    dation Loan may not consolidate  
2                    such loan with the loans de-  
3                    scribed in section 428C(a)(4).”.

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