

STUDENT BORROWER CREDIT IMPROVEMENT ACT

DECEMBER 9, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3621]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3621) to amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Student Borrower Credit Improvement Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The October 2014 report of the Bureau of Consumer Financial Protection titled “Annual Report of the CFPB Student Loan Ombudsman” noted many private education loan borrowers, who sought to negotiate a modified repayment plan when they were experiencing a period of financial distress, were unable to get assistance from their loan holders, which often resulting in them defaulting on their loans. This pattern resembles the difficulty that a significant number of mortgage loan borrowers experienced when they sought to take responsible steps to work with their mortgage loan servicer to avoid foreclosure during the Great Recession.

(2) Although private student loan holders may allow a borrower to postpone payments while enrolled in school full-time, many limit this option to a certain time period, usually 48 to 66 months. This limited time period may not be sufficient for those who need additional time to obtain their degree or who want to continue their education by pursuing a graduate or professional degree. The Bureau of Consumer Financial Protection found that borrowers who were unable to make payments often defaulted or had their accounts sent to collections before they were even able to graduate.

SEC. 3. REMOVAL OF ADVERSE INFORMATION FOR CERTAIN PRIVATE EDUCATION LOAN BORROWERS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B the following new section:

“§ 605C. Credit rehabilitation for distressed private education loan borrowers.

“(a) IN GENERAL.—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a delinquent or defaulted private education loan of a borrower if the borrower has rehabilitated the borrower’s credit with respect to such loan by making 9 on-time monthly payments (in accordance with the terms and conditions of the borrower’s original loan agreement or any other repayment agreement that antedates the original agreement) during a period of 10 consecutive months on such loan after the date on which the delinquency or default occurred.

“(b) INTERRUPTION OF 10-MONTH PERIOD FOR CERTAIN CONSUMERS.—

“(1) PERMISSIBLE INTERRUPTION OF THE 10-MONTH PERIOD.—A borrower may stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume. Such grace period shall be provided under the following circumstances:

“(A) With respect to a borrower who is a member of the Armed Forces entitled to incentive pay for the performance of hazardous duty under section 301 of title 37, United States Code, hazardous duty pay under section 351 of such title, or other assignment or special duty pay under section 352 of such title, the grace period shall begin on the date on which the borrower begins such assignment or duty and end on the date that is 6 months after the completion of such assignment or duty.

“(B) With respect to a borrower who resides in an area affected by a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the grace period shall begin on the date on which the major disaster or emergency was declared and end on the date that is 3 months after such date.

“(2) OTHER CIRCUMSTANCES.—

“(A) IN GENERAL.—The Bureau may allow a borrower demonstrating hardship to stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume.

“(B) BORROWER DEMONSTRATING HARDSHIP DEFINED.—In this paragraph, the term ‘borrower demonstrating hardship’ means a borrower or a class of borrowers who, as determined by the Bureau, is facing or has experienced unusual extenuating life circumstances or events that result in severe financial or personal barriers such that the borrower or class of borrowers does not have the capacity to comply with the requirements of subsection (a).

“(c) PROCEDURES.—The Bureau shall establish procedures to implement the credit rehabilitation described in this section, including—

“(1) the manner, content, and form for requesting credit rehabilitation;

“(2) the method for validating that the borrower is satisfying the requirements of subsection (a);

“(3) the manner, content, and form for notifying the private educational loan holder of—

“(A) the borrower’s participation in credit rehabilitation under subsection (a);

“(B) the requirements described in subsection (d); and

“(C) the restrictions described in subsection (f);

“(4) the manner, content, and form for notifying a consumer reporting agency of—

“(A) the borrower’s participation in credit rehabilitation under subsection (a); and

“(B) the requirements described in subsection (d);

“(5) the method for verifying whether a borrower qualifies for the grace period described in subsection (b);

“(6) the manner, content, and form of notifying a consumer reporting agency and private educational loan holder that a borrower was granted a grace period.

“(d) STANDARDIZED REPORTING CODES.—A consumer reporting agency shall develop standardized reporting codes for use by any private educational loan holder to identify and report a borrower’s status of making and completing 9 on-time monthly payments during a period of 10 consecutive months on a delinquent or defaulted private education loan, including codes specifying the grace period described in subsection (b) and any agreement to modify monthly payments. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer’s credit report upon the consumer’s completion of the rehabilitation period under this section.

“(e) ELIMINATION OF BARRIERS TO CREDIT REHABILITATION.—A consumer report in which a private educational loan holder furnishes the standardized reporting codes described in subsection (d) to a consumer reporting agency, or in which a consumer reporting agency includes such codes, shall be deemed to comply with the requirements for accuracy and completeness under sections 623(a)(1) and 630.

“(f) PROHIBITION ON CIVIL ACTIONS FOR CONSUMERS PURSUING REHABILITATION.—A private educational loan holder may not commence or proceed with any civil action against a borrower with respect to a delinquent or defaulted loan during the period of rehabilitation if the private educational loan holder has been notified, in accordance with the procedures established by the Bureau pursuant to subsection (c)—

“(1) of such borrower’s intent to participate in rehabilitation;

“(2) that such borrower has satisfied the requirements under subsection (a);

or

“(3) that such borrower was granted a grace period.

“(g) IMPACT ON STATUTE OF LIMITATIONS FOR PRIOR DEBT.—Payments by a borrower on a private education loan that are made during and after a period of rehabilitation under this section shall have no effect on the statute of limitations with respect to payments that were due on such private education loan before the beginning of the period of rehabilitation.

“(h) PAYMENT PLANS.—If a private educational loan holder enters into a payment plan with a borrower on a private education loan during a period of rehabilitation, such payment plan shall be reasonable and affordable, as determined by the Bureau.

“(i) RULES OF CONSTRUCTION.—

“(1) APPLICATION TO SUBSEQUENT DEFAULT OR DELINQUENCY.—A borrower who satisfies the requirements under subsection (a) shall be eligible for additional credit rehabilitation described in subsection (a) with respect to any subsequent default or delinquency of the borrower on the rehabilitated private education loan.

“(2) INTERRUPTION OF CONSECUTIVE PAYMENT PERIOD REQUIREMENT.—The grace period described in subsection (b)(1)(A) shall not apply if any regulation promulgated under section 987 of title 10, United States Code (commonly known as the Military Lending Act), or the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) allows for a grace period or other interruption of the 10-month period described in subsection (a) and such grace period or other interruption is longer than the period described in subsection (b)(1)(A) or otherwise provides greater protection or benefit to the borrower who is a member of the Armed Forces.”

(b) CONFORMING AMENDMENT.—Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)(1)) is amended by striking subparagraph (E).

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605B the following new item:

“605C. Credit rehabilitation for distressed private education loan borrowers.”.

SEC. 4. PRIVATE EDUCATION LOAN DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

“(bb) PRIVATE EDUCATION LOAN DEFINITIONS.—The terms ‘private education loan’ and ‘private educational lender’ have the meanings given such terms, respectively, in section 140(a) of the Truth in Lending Act.”.

SEC. 5. RULEMAKING.

Except as otherwise provided, the Bureau of Consumer Financial Protection shall, not later than the end of the 2-year period beginning on the date of the enactment of this Act, issue final rules to implement the amendments made by this Act.

PURPOSE AND SUMMARY

On July 5, 2019, Representative Ayanna Pressley introduced H.R. 3621, the “Student Borrower Credit Improvement Act,” which removes adverse credit file information relating to defaulted or delinquent private education loans for borrowers who demonstrate a history of timely loan repayments for these loans. The credit reporting agencies (CRAs) would be required to remove delinquent or defaulted private education loan information from consumer reports if a borrower makes nine out of ten consecutive monthly payments. In addition, the bill protects student loan borrowers by ensuring that repayment plans be affordable and reasonable, and by protecting the statute of limitations on payments even when payments are made by a borrower. The bill also permits reasonable interruptions in the consecutive repayment periods for those facing unique and extenuating life events, such as service members who are receiving imminent danger or other special pay duty when deployed, and residents in Federally-declared natural disaster areas. Furthermore, the bill would address concerns raised during the debate on S. 2155 from the 115th Congress, which included a provision on rehabilitating private student loans. Various stakeholders raised concerns that the provision would permit abusive behavior by student loan creditors and debt collectors.¹

BACKGROUND AND NEED FOR LEGISLATION

Our nation’s credit reporting system is broken yet has an impact on almost every American. Credit scores and credit reports are increasingly relied upon by creditors, employers, insurers, and even law enforcement. Yet it has been more than 15 years since Congress enacted comprehensive reform of the consumer reporting system,² and there have been numerous shortcomings with the current system identified during that time that need to be addressed. For example, the Federal Trade Commission (FTC) study found in 2012 that one out of every five consumers have a verified error on their consumer reports and 5 percent had errors serious enough to result in them being denied credit or paying more for mortgages,

¹ Coalition letter *available at* <https://nclc.org/images/pdf/legislation/house-opp-s2155-2018.pdf>.

² The Fair and Accurate Credit Transactions Act of 2003 (FACT Act; P.L. 108–159), among other things, allows consumers to request and obtain a free credit report once a year from each of the three nationwide consumer reporting agencies.

auto loans, insurance policies, and other financial obligations.³ An analysis of the Consumer Financial Protection Bureau's (CFPB) consumer complaint database revealed that in 2018, credit reports were the most complained about financial product, and the three major credit bureaus—Equifax, Experian and TransUnion—were the most-complained about financial companies.⁴ It is critical that Congress act swiftly to address these critical flaws and modernize the Fair Credit Reporting Act to ensure the credit reporting system works better for all Americans.

Given increasing tuition costs, those who need loans to pay for higher education are increasingly incurring larger student loan debts. However, unlike Federal student loans, private education lenders do not have to offer borrowers flexible repayment options, which has resulted in high defaults and delinquencies on these types of loans that, in turn, impair many young consumers' credit standing.⁵

According to the CFPB, student loan debt exceeds \$1.5 trillion, which creates a drag on our country's economy by hindering borrowers' ability to qualify for mortgage and auto loans, pursue entrepreneurial ventures, build wealth, save for retirement, and pursue certain careers, including civic-minded jobs.⁶ Federal student loan borrowers have some repayment options that are not required to be provided to private education loan borrowers.⁷ Although some private education loan holders may allow student borrowers to postpone payments while they are enrolled in school full-time, this period is usually capped at 48 or 66 months.⁸ This can create a financial paradox for continuing education students, who may need additional time to finish an undergraduate degree, and for those who want to obtain a graduate degree but cannot afford to make loan payments while they are still in school. As such, even before some students graduate, their reports may contain negative information related to their private education loans.⁹

³ <https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf>.

⁴ <https://uspirg.org/news/usp/youre-not-alone-cfpb-complaints-rise>.

⁵ Consumer Financial Protection Bureau, Annual report of the CFPB Student Loan Ombudsman (2017), available at https://files.consumerfinance.gov/f/documents/cfpb_annual-report_student-loan-ombudsman_2017.pdf.

⁶ Consumer Financial Protection Bureau, Student Loan Affordability: Analysis of Public Input on Impact and Solutions (2013), available at https://files.consumerfinance.gov/f/201305_cfpb_rfi-report_student-loans.pdf.

⁷ United States Department of Education, Federal Student Aid, What are the Differences Between Federal and Private Student Loans? Available at <https://studentaid.ed.gov/sa/types/loans/federal-vs-private>.

⁸ Id.

⁹ Deanne Loonin, The Student Loan Default Trap, Why Borrowers Default and What can be Done, National Consumer Law Center (2012), available at <https://www.studentloanborrowerassistance.org/wp-content/uploads/File/student-loan-default-trap-report.pdf>.

This legislation is supported by more than 80 consumer, civil rights, labor, and community organizations.¹⁰ The National Association of Realtors also support this legislation.¹¹

This legislation is substantially similar to Title III of the discussion draft of Chairwoman Maxine Waters' legislation, the "Comprehensive Consumer Credit Reporting Reform Act of 2019," which was considered at a full committee hearing on February 26, 2019 and was introduced in previous congresses.¹²

SECTION-BY-SECTION ANALYSIS

Section 1. Title

This section provides that H.R. 3621 may be cited as the "Student Borrower Credit Improvement Act."

Section 2. Congressional findings

This section highlights a report from the Consumer Financial Protection Bureau explaining the problems and challenges with private student loan repayment plans and the consequences that young people and others face when they fall behind or default on these loans.

¹⁰ Supporting organizations include Americans for Financial Reform, A2Z Real Estate Consultants, African American Health Alliance, Alaska Public Interest Research Group, Allied Progress, Arkansas Community Organizations, BREAD Organization, CAFE Montgomery MD, Center for Digital Democracy, Cleveland Jobs with Justice, Community Action Human Resources Agency (CAHRA), Congregation of Our Lady of the Good Shepherd, US Provinces, Connecticut, Fair Housing Center, Consumer Action, Consumer Federation of America, Consumer Federation of California, Consumer Reports, CWA Local 1081, Delaware Community Reinvestment Action Council, Inc., Demos, Denver Area Labor Federation, East Bay Community Law Center, FAITH IN TEXAS, Famicos Foundation, FLARA, Florida Alliance for Consumer Protection, Greater Longview United Way, Groundcover News, Habitat for Humanity of Camp Co, TX, Hawaiian Community Assets, Housing Action Illinois, Housing and Family Services of Greater New York, Inc., Mary House, Inc., Maryland Consumer Rights Coalition, Miami Valley Fair Housing Center, Inc., Mobilization for Justice Inc., Montana Organizing Project, Multi-Cultural Real Estate Alliance For Urban Change, National Advocacy Center of the Sisters of the Good Shepherd, National Association of Consumer Advocates, National Association of Social Workers, National Association of Social Workers West Virginia Chapter, National Center for Law and Economic Justice, National Consumer Law Center (on behalf of its low-income clients), National Fair Housing Alliance, National Housing Law Project, National Housing Resource Center, National Rural Social Work Caucus, New Economics for Women, New Jersey Citizen Action, New Jersey Tenants Organization, New York Legal Assistance Group, North Carolina Council of Churches, Partners In Community Building, Inc., PathWays PA, Pennsylvania Council of Churches, People Demanding Action, Progressive Leadership Alliance of Nevada, Project IRENE, Prosperity Now, Public Citizen, Public Justice Center, Public Law Center, Public Utility Law Project of New York, Rocky Mountain Peace and Justice Center, SC Appleseed Legal Justice Center, Sisters of Mercy South Central Community, Society of St. Vincent de Paul, St. Paul UMC, Tennessee Citizen Action, The Center for Survivor Agency and Justice, The Disaster Law Project, The Greenlining Institute, The Leadership Conference on Civil and Human Rights, THE ONE LESS FOUNDATION, Tzedek DC, U.S. PIRG, Urban Asset Builders, Inc., Virginia Citizens Consumer Council, Virginia Poverty Law Center, West Virginia Center on Budget and Policy, Wildfire, Woodstock Institute, and WV Citizen Action Group. See <http://ourfinancialsecurity.org/2019/07/news-release-afr-statement-financial-services-committee-markup-credit-reporting/>.

¹¹ National Association of Realtors letter, available at <https://narfocus.com/billdatabase/clientfiles/172/2/3417.pdf>.

¹² Financial Services Committee Hearing: Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System (2019). Hearing information available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=402343>. Also see H.R. 5282 (114th Congress), the Comprehensive Consumer Credit Reporting Reform Act of 2016, introduced by Rep. Waters on May 19, 2016, and H.R. 3755 (115th Congress), the Comprehensive Consumer Credit Reporting Reform Act of 2017, introduced by Rep. Waters on September 13, 2017, available with additional materials at <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=400788>.

Section 3. Removes adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment

This section creates a new section, “605C” of the Fair Credit Reporting Act.

The new section 605C prevents consumer reporting agencies from furnishing any consumer reports containing any adverse information related to a consumer’s delinquent or defaulted private education loan, if the borrower has made nine on-time consecutive monthly payments. This section also creates a provision of reasonable interruptions in the consecutive repayment period permitting borrowers to miss payments when facing unique and extenuating life events, such as service members who are receiving imminent danger or other special pay duty when deployed, and residents in Federally-declared natural disaster areas.

Section 4. Private education loan definitions

This section amends section 603 of the Fair Credit Reporting Act by defining “private student loan” and “private educational lender”.

Section 5. General Bureau Rulemaking

This section directs the Consumer Financial Protection Bureau to issue final rules implementing this Act within two years of the enactment of H.R. 3621.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress—

(1) The Committee on Financial Services held a hearing, entitled “Who’s Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System” to consider the “Comprehensive Consumer Credit Reporting Reform Act of 2019” (Title III of the discussion draft is substantially similar to H.R. 3621) on February 26, 2019. The two-panel hearing consisted of first the three CEOs of the three largest Credit Reporting Agencies: Equifax, TransUnion, and Experian. Witnesses on the second panel included representatives from the National Fair Housing Alliance, the National Consumer Law Center, UnidosUS, U.S. Public Interest Research Group (PIRG), and a Paul Hastings partner and attorney. The hearing allowed Members of the Financial Services Committee to hear from witnesses about the continuing challenges modernizing the Fair Credit Reporting Act to better protect consumers and their data, as well as other legislation to help overcome those challenges.

(2) In addition, during the 115th Congress, the Financial Services Committee held a two-part hearing on the Equifax data breach and related credit reporting and consumer data protection issues. The first part of the hearing entitled “Examining the Equifax Data Breach” took place on October 5, 2017 and featured the former Chairman and CEO to Equifax. The Committee also held a Minority Day hearing, which was a continuation of the hearing entitled, “Examining the Equifax Data Breach” and took place on October 25, 2017. Witnesses included representatives from the Consumer Financial Protection Bureau, the National Consumer Law Center,

Georgetown University Law Center, and the Office of the New York State Attorney General.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 16, 2019, and ordered H.R. 3621 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 32 yeas and 26 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 3621:

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>		X
	Mrs. Maloney		X
	Ms. Velázquez		X
	Mr. Sherman		X
	Mr. Meeks		X
	Mr. Clay		X
	Mr. Scott		X
	Mr. Green		X
	Mr. Cleaver		X
	Mr. Perlmutter		X
	Mr. Himes		X
	Mr. Foster		X
	Mrs. Beatty		X
	Mr. Heck		X
	Mr. Vargas		X
	Mr. Gottheimer		X
	Mr. Gonzalez (TX)		X
	Mr. Lawson		X
	Mr. San Nicolas		X
	Ms. Tlaib		X
	Ms. Porter		X
	Ms. Axne		X
	Mr. Casten		X
	Ms. Pressley		X
	Mr. McAdams		X
	Ms. Ocasio-Cortez		X
	Ms. Wexton		X
	Mr. Lynch		X
	Ms. Gabbard		X
	Ms. Adams		X
	Ms. Dean		X
	Mr. Garcia (IL)		X
	Ms. Garcia (TX)		X
	Mr. Phillips		X
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	Mr. McHenry, <i>Ranking Member</i>	X	
	Mrs. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Duffy	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams		
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
26			

Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: _____ 7/16/2019

Measure ____ H.R. 3621, as amended

Amendment No. _____ 3b

Offered by: ___ Rep. Gooden to Pressley ANS

Agreed To	Yes	No	Prsnt	Wdrn
	Ayes		Nays	

Record Vote	FC
	25 Ayes- 33 Noes

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott	X	
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck		
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas	X	
	Ms. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard	X	
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
34			
	Mr. McHenry, <i>Ranking Member</i>		X
	Mrs. Wagner		X
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey		X
	Mr. Luetkemeyer		X
	Mr. Huizenga		X
	Mr. Duffy		X
	Mr. Stivers		X
	Mr. Barr		X
	Mr. Tipton		X
	Mr. Williams		X
	Mr. Hill		X
	Mr. Emmer		X
	Mr. Zeldin		X
	Mr. Loudemilk		X
	Mr. Mooney		X
	Mr. Davidson		X
	Mr. Budd		X
	Mr. Kustoff		X
	Mr. Hollingsworth		X
	Mr. Gonzalez (OH)		X
	Mr. Rose		X
	Mr. Steil		X
	Mr. Gooden		X
	Mr. Riggleman		X
26			

Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: _____ 7/16/2019

Measure ____ H.R. 3621, as amended (Final Passage)

Amendment No. _____

Offered by: ____ Rep. Pressley

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	33 Ayes- 25 Noes

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 3621 are to increase resources for private student loan holders to repay their loans and increase their credit scores.

NEW BUDGET AUTHORITY AND CBO ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 3621 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 5, 2019.

Hon. MAXINE WATERS,
*Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3621, the Student Borrower Credit Improvement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 3621, Student Borrower Credit Improvement Act			
As ordered reported by the House Committee on Financial Services on July 16, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	2	3	3
Revenues	0	0	0
Deficit Effect	2	3	3
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Cannot Determine Costs

H.R. 3621 would require the Consumer Financial Protection Agency (CFPB) to establish procedures by which borrowers could rehabilitate their credit if they are delinquent or have defaulted on a private-sector education loan. Under the bill, if a borrower makes at least 9 of 10 consecutive monthly payments on time, after the date of the delinquency or default, consumer reporting agencies (CRAs) could not include adverse information related to that delinquency or default in a consumer report. Payments during the 10-month period could be interrupted and resumed without consequences for members of the U.S. Armed Forces on assignment, people residing in areas affected by disaster, and people demonstrating hardship. Finally, H.R. 3621 would require the CFPB to issue rules that regulate payment plans between private education lenders and borrowers during credit rehabilitation periods.

Using information from the CFPB, CBO expects that issuing rules and establishing procedures under the bill would require the work of 13 agency employees for one year at an average cost of \$200,000 each. On that basis, CBO estimates that enacting H.R. 3621 would increase direct spending by \$3 million over the 2020–2021 period. (The CFPB has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve.)

H.R. 3621 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO cannot determine whether the aggregate cost of those mandates would exceed the private-sector threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

The bill would require CRAs to remove delinquency or default information related to private education loans from credit reports of borrowers who have completed the specified credit rehabilitation process. H.R. 3621 also would require CRAs to develop a standard reporting code for private lenders to identify borrowers pursuing such credit rehabilitation. Using information from industry sources, CBO estimates the cost of complying with those requirements would be small.

H.R. 3621 would impose an additional mandate by removing a private right of action by limiting the right of lenders of private

education loans to file civil lawsuits against certain borrowers. The cost of the mandate would be the forgone net value of awards and settlements that would have been granted for such claims in the absence of the bill. Because H.R. 3621 allows CFPB to exempt borrowers from lawsuits on an individual basis, CBO has no basis on which to estimate the number of possible lawsuits precluded by the bill. Nor can we predict the amount of potential forgone settlements. Therefore, CBO cannot estimate the cost of the mandate.

The bill contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3621. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 3621, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

COMMITTEE CORRESPONDENCE

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

H.R. 3621 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R.

3621 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 3621, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FAIR CREDIT REPORTING ACT

* * * * *

TITLE VI—CONSUMER CREDIT REPORTING

Sec.

601. Short title.

* * * * *

Sec. 605C. *Credit rehabilitation for distressed private education loan borrowers.*

* * * * *

§ 603. Definitions and rules of construction

(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(c) The term “consumer” means an individual.

(d) CONSUMER REPORT.—

(1) IN GENERAL.—The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for—

(A) credit or insurance to be used primarily for personal, family, or household purposes;

(B) employment purposes; or

(C) any other purpose authorized under section 604.

(2) EXCLUSIONS.—Except as provided in paragraph (3), the term “consumer report” does not include—

(A) subject to section 624, any—

(i) report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

(iii) communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;

(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 615; or

(D) a communication described in subsection (o) or (x).

(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate control, if the information is—

(A) medical information;

(B) an individualized list or description based on the payment transactions of the consumer for medical products or services; or

(C) an aggregate list of identified consumers based on payment transactions for medical products or services.

(e) The term “investigative consumer report” means a consumer report or portion thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer’s credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(f) The term “consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third

parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(g) The term “file”, when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(h) The term “employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

(i) MEDICAL INFORMATION.—The term “medical information”—

(1) means information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

(A) the past, present, or future physical, mental, or behavioral health or condition of an individual;

(B) the provision of health care to an individual; or

(C) the payment for the provision of health care to an individual.

(2) does not include the age or gender of a consumer, demographic information about the consumer, including a consumer’s residence address or e-mail address, or any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy.

(j) DEFINITIONS RELATING TO CHILD SUPPORT OBLIGATIONS.—

(1) OVERDUE SUPPORT.—The term “overdue support” has the meaning given to such term in section 466(e) of the Social Security Act.

(2) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—The term “State or local child support enforcement agency” means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.

(k) ADVERSE ACTION.—

(1) ACTIONS INCLUDED.—The term “adverse action”—

(A) has the same meaning as in section 701(d)(6) of the Equal Credit Opportunity Act; and

(B) means—

(i) a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance;

(ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

(iii) a denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 604(a)(3)(D); and

(iv) an action taken or determination that is—

(I) made in connection with an application that was made by, or a transaction that was initiated

by, any consumer, or in connection with a review of an account under section 604(a)(3)(F)(ii); and

(II) adverse to the interests of the consumer.

(2) **APPLICABLE FINDINGS, DECISIONS, COMMENTARY, AND ORDERS.**—For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final findings, decisions, commentary, and orders issued under section 701(d)(6) of the Equal Credit Opportunity Act by the Bureau or any court shall apply.

(l) **FIRM OFFER OF CREDIT OR INSURANCE.**—The term “firm offer of credit or insurance” means any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

(1) The consumer being determined, based on information in the consumer’s application for the credit or insurance, to meet specific criteria bearing on credit worthiness or insurability, as applicable, that are established—

(A) before selection of the consumer for the offer; and

(B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.

(2) **Verification**—

(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer’s application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or

(B) of the information in the consumer’s application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.

(3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was—

(A) established before selection of the consumer for the offer of credit or insurance; and

(B) disclosed to the consumer in the offer of credit or insurance.

(m) **CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.**—The term “credit or insurance transaction that is not initiated by the consumer” does not include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of—

(1) reviewing the account or insurance policy; or

(2) collecting the account.

(n) **STATE.**—The term “State” means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(o) **EXCLUDED COMMUNICATIONS.**—A communication is described in this subsection if it is a communication—

(1) that, but for subsection (d)(2)(D), would be an investigative consumer report;

(2) that is made to a prospective employer for the purpose of—

(A) procuring an employee for the employer; or

(B) procuring an opportunity for a natural person to work for the employer;

(3) that is made by a person who regularly performs such procurement;

(4) that is not used by any person for any purpose other than a purpose described in subparagraph (A) or (B) of paragraph (2); and

(5) with respect to which—

(A) the consumer who is the subject of the communication—

(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, not later than 3 business days after the receipt of the consent by that person;

(B) the person who makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

(C) the person who makes the communication—

(i) discloses in writing to the consumer who is the subject of the communication, not later than 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of any information that is acquired solely for use in making the communication and is actually used for no other purpose, need not be disclosed other than under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought; and

(ii) notifies the consumer who is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).

(p) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS.—The term “consumer reporting agency that compiles and maintains files on consumers on a nationwide basis” means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

- (1) Public record information.
 - (2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.
- (q) DEFINITIONS RELATING TO FRAUD ALERTS.—
- (1) ACTIVE DUTY MILITARY CONSUMER.—The term “active duty military consumer” means a consumer in military service who—
 - (A) is on active duty (as defined in section 101(d)(1) of title 10, United States Code) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10, United States Code; and
 - (B) is assigned to service away from the usual duty station of the consumer.
 - (2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms “fraud alert” and “active duty alert” mean a statement in the file of a consumer that—
 - (A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable; and
 - (B) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) by any person requesting such consumer report.
 - (3) IDENTITY THEFT.—The term “identity theft” means a fraud committed using the identifying information of another person, subject to such further definition as the Bureau may prescribe, by regulation.
 - (4) IDENTITY THEFT REPORT.—The term “identity theft report” has the meaning given that term by rule of the Bureau, and means, at a minimum, a report—
 - (A) that alleges an identity theft;
 - (B) that is a copy of an official, valid report filed by a consumer with an appropriate Federal, State, or local law enforcement agency, including the United States Postal Inspection Service, or such other government agency deemed appropriate by the Bureau; and
 - (C) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.
 - (5) NEW CREDIT PLAN.—The term “new credit plan” means a new account under an open end credit plan (as defined in section 103(i) of the Truth in Lending Act) or a new credit transaction not under an open end credit plan.
- (r) CREDIT AND DEBIT RELATED TERMS—
- (1) CARD ISSUER.—The term “card issuer” means—
 - (A) a credit card issuer, in the case of a credit card; and
 - (B) a debit card issuer, in the case of a debit card.
 - (2) CREDIT CARD.—The term “credit card” has the same meaning as in section 103 of the Truth in Lending Act.
 - (3) DEBIT CARD.—The term “debit card” means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transfer-

ring money between accounts or obtaining money, property, labor, or services.

(4) ACCOUNT AND ELECTRONIC FUND TRANSFER.—The terms “account” and “electronic fund transfer” have the same meanings as in section 903 of the Electronic Fund Transfer Act.

(5) CREDIT AND CREDITOR.—The terms “credit” and “creditor” have the same meanings as in section 702 of the Equal Credit Opportunity Act.

(s) FEDERAL BANKING AGENCY.—The term “Federal banking agency” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(t) FINANCIAL INSTITUTION.—The term “financial institution” means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds a transaction account (as defined in section 19(b) of the Federal Reserve Act) belonging to a consumer.

(u) RESELLER.—The term “reseller” means a consumer reporting agency that—

(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

(v) COMMISSION.—The term “Commission” means the Bureau.

(w) The term “Bureau” means the Bureau of Consumer Financial Protection.

(x) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—The term “nationwide specialty consumer reporting agency” means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to—

(1) medical records or payments;

(2) residential or tenant history;

(3) check writing history;

(4) employment history; or

(5) insurance claims.

(y) EXCLUSION OF CERTAIN COMMUNICATIONS FOR EMPLOYEE INVESTIGATIONS.—

(1) COMMUNICATIONS DESCRIBED IN THIS SUBSECTION.—A communication is described in this subsection if—

(A) but for subsection (d)(2)(D), the communication would be a consumer report;

(B) the communication is made to an employer in connection with an investigation of—

(i) suspected misconduct relating to employment; or

(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;

(C) the communication is not made for the purpose of investigating a consumer’s credit worthiness, credit standing, or credit capacity; and

(D) the communication is not provided to any person except—

- (i) to the employer or an agent of the employer;
- (ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;
- (iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;
- (iv) as otherwise required by law; or
- (v) pursuant to section 608.

(2) **SUBSEQUENT DISCLOSURE.**—After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigative consumer report need not be disclosed.

(3) **SELF-REGULATORY ORGANIZATION DEFINED.**—For purposes of this subsection, the term “self-regulatory organization” includes any self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.

(z) **VETERAN.**—The term “veteran” has the meaning given the term in section 101 of title 38, United States Code.

(aa) **VETERAN’S MEDICAL DEBT.**—The term “veteran’s medical debt”—

(1) means a medical collection debt of a veteran owed to a non-Department of Veterans Affairs health care provider that was submitted to the Department for payment for health care authorized by the Department of Veterans Affairs; and

(2) includes medical collection debt that the Department of Veterans Affairs has wrongfully charged a veteran.

(bb) **PRIVATE EDUCATION LOAN DEFINITIONS.**—The terms “private education loan” and “private educational lender” have the meanings given such terms, respectively, in section 140(a) of the Truth in Lending Act.

* * * * *

§ 605C. Credit rehabilitation for distressed private education loan borrowers.

(a) **IN GENERAL.**—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a delinquent or defaulted private education loan of a borrower if the borrower has rehabilitated the borrower’s credit with respect to such loan by making 9 on-time monthly payments (in accordance with the terms and conditions of the borrower’s original loan agreement or any other repayment agreement that antedates the original agreement) during a period of 10 consecutive months on such loan after the date on which the delinquency or default occurred.

(b) **INTERRUPTION OF 10-MONTH PERIOD FOR CERTAIN CONSUMERS.**—

(1) *PERMISSIBLE INTERRUPTION OF THE 10-MONTH PERIOD.*—A borrower may stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume. Such grace period shall be provided under the following circumstances:

(A) *With respect to a borrower who is a member of the Armed Forces entitled to incentive pay for the performance of hazardous duty under section 301 of title 37, United States Code, hazardous duty pay under section 351 of such title, or other assignment or special duty pay under section 352 of such title, the grace period shall begin on the date on which the borrower begins such assignment or duty and end on the date that is 6 months after the completion of such assignment or duty.*

(B) *With respect to a borrower who resides in an area affected by a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the grace period shall begin on the date on which the major disaster or emergency was declared and end on the date that is 3 months after such date.*

(2) *OTHER CIRCUMSTANCES.*—

(A) *IN GENERAL.*—The Bureau may allow a borrower demonstrating hardship to stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume.

(B) *BORROWER DEMONSTRATING HARDSHIP DEFINED.*—In this paragraph, the term “borrower demonstrating hardship” means a borrower or a class of borrowers who, as determined by the Bureau, is facing or has experienced unusual extenuating life circumstances or events that result in severe financial or personal barriers such that the borrower or class of borrowers does not have the capacity to comply with the requirements of subsection (a).

(c) *PROCEDURES.*—The Bureau shall establish procedures to implement the credit rehabilitation described in this section, including—

(1) *the manner, content, and form for requesting credit rehabilitation;*

(2) *the method for validating that the borrower is satisfying the requirements of subsection (a);*

(3) *the manner, content, and form for notifying the private educational loan holder of—*

(A) *the borrower’s participation in credit rehabilitation under subsection (a);*

(B) *the requirements described in subsection (d); and*

(C) *the restrictions described in subsection (f);*

(4) *the manner, content, and form for notifying a consumer reporting agency of—*

(A) *the borrower’s participation in credit rehabilitation under subsection (a); and*

(B) *the requirements described in subsection (d);*

(5) *the method for verifying whether a borrower qualifies for the grace period described in subsection (b);*

(6) *the manner, content, and form of notifying a consumer reporting agency and private educational loan holder that a borrower was granted a grace period.*

(d) **STANDARDIZED REPORTING CODES.**—A consumer reporting agency shall develop standardized reporting codes for use by any private educational loan holder to identify and report a borrower's status of making and completing 9 on-time monthly payments during a period of 10 consecutive months on a delinquent or defaulted private education loan, including codes specifying the grace period described in subsection (b) and any agreement to modify monthly payments. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer's credit report upon the consumer's completion of the rehabilitation period under this section.

(e) **ELIMINATION OF BARRIERS TO CREDIT REHABILITATION.**—A consumer report in which a private educational loan holder furnishes the standardized reporting codes described in subsection (d) to a consumer reporting agency, or in which a consumer reporting agency includes such codes, shall be deemed to comply with the requirements for accuracy and completeness under sections 623(a)(1) and 630.

(f) **PROHIBITION ON CIVIL ACTIONS FOR CONSUMERS PURSUING REHABILITATION.**—A private educational loan holder may not commence or proceed with any civil action against a borrower with respect to a delinquent or defaulted loan during the period of rehabilitation if the private educational loan holder has been notified, in accordance with the procedures established by the Bureau pursuant to subsection (c)—

- (1) *of such borrower's intent to participate in rehabilitation;*
- (2) *that such borrower has satisfied the requirements under subsection (a); or*
- (3) *that such borrower was granted a grace period.*

(g) **IMPACT ON STATUTE OF LIMITATIONS FOR PRIOR DEBT.**—Payments by a borrower on a private education loan that are made during and after a period of rehabilitation under this section shall have no effect on the statute of limitations with respect to payments that were due on such private education loan before the beginning of the period of rehabilitation.

(h) **PAYMENT PLANS.**—If a private educational loan holder enters into a payment plan with a borrower on a private education loan during a period of rehabilitation, such payment plan shall be reasonable and affordable, as determined by the Bureau.

(i) **RULES OF CONSTRUCTION.**—

(1) **APPLICATION TO SUBSEQUENT DEFAULT OR DELINQUENCY.**—A borrower who satisfies the requirements under subsection (a) shall be eligible for additional credit rehabilitation described in subsection (a) with respect to any subsequent default or delinquency of the borrower on the rehabilitated private education loan.

(2) **INTERRUPTION OF CONSECUTIVE PAYMENT PERIOD REQUIREMENT.**—The grace period described in subsection (b)(1)(A) shall not apply if any regulation promulgated under section 987 of title 10, United States Code (commonly known as the Military Lending Act), or the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) allows for a grace period or other inter-

ruption of the 10-month period described in subsection (a) and such grace period or other interruption is longer than the period described in subsection (b)(1)(A) or otherwise provides greater protection or benefit to the borrower who is a member of the Armed Forces.

* * * * *

SEC. 623. RESPONSIBILITIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES.

(a) DUTY OF FURNISHERS OF INFORMATION TO PROVIDE ACCURATE INFORMATION.—

(1) PROHIBITION.—

(A) REPORTING INFORMATION WITH ACTUAL KNOWLEDGE OF ERRORS.—A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.

(B) REPORTING INFORMATION AFTER NOTICE AND CONFIRMATION OF ERRORS.—A person shall not furnish information relating to a consumer to any consumer reporting agency if—

(i) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and

(ii) the information is, in fact, inaccurate.

(C) NO ADDRESS REQUIREMENT.—A person who clearly and conspicuously specifies to the consumer an address for notices referred to in subparagraph (B) shall not be subject to subparagraph (A); however, nothing in subparagraph (B) shall require a person to specify such an address.

(D) DEFINITION.—For purposes of subparagraph (A), the term “reasonable cause to believe that the information is inaccurate” means having specific knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.

[(E) REHABILITATION OF PRIVATE EDUCATION LOANS.—

[(i) IN GENERAL.—Notwithstanding any other provision of this section, a consumer may request a financial institution to remove from a consumer report a reported default regarding a private education loan, and such information shall not be considered inaccurate, if—

[(I) the financial institution chooses to offer a loan rehabilitation program which includes, without limitation, a requirement of the consumer to make consecutive on-time monthly payments in a number that demonstrates, in the assessment of the financial institution offering the loan rehabilitation program, a renewed ability and willingness to repay the loan; and

[(II) the requirements of the loan rehabilitation program described in subclause (I) are successfully met.

[(ii) BANKING AGENCIES.—

【(I) IN GENERAL.—If a financial institution is supervised by a Federal banking agency, the financial institution shall seek written approval concerning the terms and conditions of the loan rehabilitation program described in clause (i) from the appropriate Federal banking agency.

【(II) FEEDBACK.—An appropriate Federal banking agency shall provide feedback to a financial institution within 120 days of a request for approval under subclause (I).

【(iii) LIMITATION.—

【(I) IN GENERAL.—A consumer may obtain the benefits available under this subsection with respect to rehabilitating a loan only 1 time per loan.

【(II) RULE OF CONSTRUCTION.—Nothing in this subparagraph may be construed to require a financial institution to offer a loan rehabilitation program or to remove any reported default from a consumer report as a consideration of a loan rehabilitation program, except as described in clause (i).

【(iv) DEFINITIONS.—For purposes of this subparagraph—

【(I) the term “appropriate Federal banking agency” has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

【(II) the term “private education loan” has the meaning given the term in section 140(a) of the Truth in Lending Act (15 U.S.C. 1650(a)).】

(2) DUTY TO CORRECT AND UPDATE INFORMATION.—A person who—

(A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person’s transactions or experiences with any consumer; and

(B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate,

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.

(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

(4) DUTY TO PROVIDE NOTICE OF CLOSED ACCOUNTS.—A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding

a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the consumer, in information regularly furnished for the period in which the account is closed.

(5) DUTY TO PROVIDE NOTICE OF DELINQUENCY OF ACCOUNTS.—(A) IN GENERAL.—A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall, not later than 90 days after furnishing the information, notify the agency of the date of delinquency on the account, which shall be the month and year of the commencement of the delinquency on the account that immediately preceded the action.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date to a consumer reporting agency as the date of delinquency; or

(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.

(6) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED INFORMATION.—

(A) REASONABLE PROCEDURES.—A person that furnishes information to any consumer reporting agency shall have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information.

(B) INFORMATION ALLEGED TO RESULT FROM IDENTITY THEFT.—If a consumer submits an identity theft report to a person who furnishes information to a consumer reporting agency at the address specified by that person for receiving such reports stating that information maintained by such person that purports to relate to the consumer re-

sulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the information is correct.

(7) NEGATIVE INFORMATION.—

(A) NOTICE TO CONSUMER REQUIRED.—

(i) IN GENERAL.—If any financial institution that extends credit and regularly and in the ordinary course of business furnishes information to a consumer reporting agency described in section 603(p) furnishes negative information to such an agency regarding credit extended to a customer, the financial institution shall provide a notice of such furnishing of negative information, in writing, to the customer.

(ii) NOTICE EFFECTIVE FOR SUBSEQUENT SUBMISSIONS.—After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 603(p) with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer.

(B) TIME OF NOTICE.—

(i) IN GENERAL.—The notice required under subparagraph (A) shall be provided to the customer prior to, or no later than 30 days after, furnishing the negative information to a consumer reporting agency described in section 603(p).

(ii) COORDINATION WITH NEW ACCOUNT DISCLOSURES.—If the notice is provided to the customer prior to furnishing the negative information to a consumer reporting agency, the notice may not be included in the initial disclosures provided under section 127(a) of the Truth in Lending Act.

(C) COORDINATION WITH OTHER DISCLOSURES.—The notice required under subparagraph (A)—

(i) may be included on or with any notice of default, any billing statement, or any other materials provided to the customer; and

(ii) must be clear and conspicuous.

(D) MODEL DISCLOSURE.—

(i) DUTY OF BUREAU.—The Bureau shall prescribe a brief model disclosure that a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

(ii) USE OF MODEL NOT REQUIRED.—No provision of this paragraph may be construed to require a financial institution to use any such model form prescribed by the Bureau.

(iii) COMPLIANCE USING MODEL.—A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any model form prescribed by the Bureau under this subparagraph, or the financial institution uses any such model form and rearranges its format.

(E) USE OF NOTICE WITHOUT SUBMITTING NEGATIVE INFORMATION.—No provision of this paragraph shall be construed as requiring a financial institution that has provided a customer with a notice described in subparagraph (A) to furnish negative information about the customer to a consumer reporting agency.

(F) SAFE HARBOR.—A financial institution shall not be liable for failure to perform the duties required by this paragraph if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

(G) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) NEGATIVE INFORMATION.—The term “negative information” means information concerning a customer’s delinquencies, late payments, insolvency, or any form of default.

(ii) CUSTOMER; FINANCIAL INSTITUTION.—The terms “customer” and “financial institution” have the same meanings as in section 509 Public Law 106–102.

(8) ABILITY OF CONSUMER TO DISPUTE INFORMATION DIRECTLY WITH FURNISHER.—

(A) IN GENERAL.—The Bureau shall, in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration, prescribe regulations that shall identify the circumstances under which a furnisher shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer, based on a direct request of a consumer.

(B) CONSIDERATIONS.—In prescribing regulations under subparagraph (A), the agencies shall weigh—

(i) the benefits to consumers with the costs on furnishers and the credit reporting system;

(ii) the impact on the overall accuracy and integrity of consumer reports of any such requirements;

(iii) whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any such dispute; and

(iv) the potential impact on the credit reporting process if credit repair organizations, as defined in section 403(3), including entities that would be a credit repair organization, but for section 403(3)(B)(i), are able to circumvent the prohibition in subparagraph (G).

(C) APPLICABILITY.—Subparagraphs (D) through (G) shall apply in any circumstance identified under the regulations promulgated under subparagraph (A).

(D) SUBMITTING A NOTICE OF DISPUTE.—A consumer who seeks to dispute the accuracy of information shall provide a dispute notice directly to such person at the address specified by the person for such notices that—

- (i) identifies the specific information that is being disputed;
- (ii) explains the basis for the dispute; and
- (iii) includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.

(E) DUTY OF PERSON AFTER RECEIVING NOTICE OF DISPUTE.—After receiving a notice of dispute from a consumer pursuant to subparagraph (D), the person that provided the information in dispute to a consumer reporting agency shall—

- (i) conduct an investigation with respect to the disputed information;
- (ii) review all relevant information provided by the consumer with the notice;
- (iii) complete such person's investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and
- (iv) if the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the person furnished the inaccurate information of that determination and provide to the agency any correction to that information that is necessary to make the information provided by the person accurate.

(F) FRIVOLOUS OR IRRELEVANT DISPUTE.—

- (i) IN GENERAL.—This paragraph shall not apply if the person receiving a notice of a dispute from a consumer reasonably determines that the dispute is frivolous or irrelevant, including—

(I) by reason of the failure of a consumer to provide sufficient information to investigate the disputed information; or

(II) the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person's duties under this paragraph or subsection (b), as applicable.

- (ii) NOTICE OF DETERMINATION.—Upon making any determination under clause (i) that a dispute is frivolous or irrelevant, the person shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the person.

(iii) CONTENTS OF NOTICE.—A notice under clause (ii) shall include—

(I) the reasons for the determination under clause (i); and

(II) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(G) EXCLUSION OF CREDIT REPAIR ORGANIZATIONS.—This paragraph shall not apply if the notice of the dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in section 403(3), or an entity that would be a credit repair organization, but for section 403(3)(B)(i).

(9) DUTY TO PROVIDE NOTICE OF STATUS AS MEDICAL INFORMATION FURNISHER.—A person whose primary business is providing medical services, products, or devices, or the person's agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this title, and shall notify the agency of such status.

(b) DUTIES OF FURNISHERS OF INFORMATION UPON NOTICE OF DISPUTE.—

(1) IN GENERAL.—After receiving notice pursuant to section 611(a)(2) of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—

(A) conduct an investigation with respect to the disputed information;

(B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2);

(C) report the results of the investigation to the consumer reporting agency;

(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis; and

(E) if an item of information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), for purposes of reporting to a consumer reporting agency only, as appropriate, based on the results of the reinvestigation promptly—

(i) modify that item of information;

(ii) delete that item of information; or

(iii) permanently block the reporting of that item of information.

(2) DEADLINE.—A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the expiration of the period under section 611(a)(1) within which the consumer reporting agency is required to complete actions required by that section regarding that information.

(c) LIMITATION ON LIABILITY.—Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of—

(1) subsection (a) of this section, including any regulations issued thereunder;

(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 616 or 617, as applicable, for violations of subsection (b) of this section; or

(3) subsection (e) of section 615.

(d) LIMITATION ON ENFORCEMENT.—The provisions of law described in paragraphs (1) through (3) of subsection (c) (other than with respect to the exception described in paragraph (2) of subsection (c)) shall be enforced exclusively as provided under section 621 by the Federal agencies and officials and the State officials identified in section 621.

(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

(1) GUIDELINES.—The Bureau shall, with respect to persons or entities that are subject to the enforcement authority of the Bureau under section 621—

(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

(2) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the Bureau shall—

(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;

(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and

(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.

* * * * *

MINORITY VIEWS

Committee Republicans believe that H.R. 3621, the *Student Borrower Credit Improvement Act of 2019*, is yet another bill that fails to address the underlying issues related to the federal student loan debt crisis, which was further exacerbated by the Democrats' goal of nationalizing student lending in 2010. Instead of addressing the underlying issues related to student loan debt, proponents of H.R. 3621 seek to address problems in the private student loan market despite the fact that the private market is made up of less than ten percent of student loan borrowers. Moreover, approximately 98 percent of student loans are repaid in the private market.

H.R. 3621, as amended, prevents credit reporting agencies from incorporating into consumer reports any adverse information relating to a delinquent or defaulted private education loan if the consumer has made nine on time monthly payments in a consecutive ten-month period. The legislation also prohibits credit reporting agencies from taking civil action against a consumer pursuing rehabilitation.

In 2010, the Democrats nationalized student lending through the reconciliation process related to Obamacare. Rather than searching for a solution to rising college costs and financial illiteracy, Democrats further exacerbated the student loan crisis by saddling the federal government and an entire generation with a \$1.5 trillion debt load. Unlike the high repayment rate with respect to private loans, the default rate for the Department of Education's Direct Loan program is "16.8 percent by recipient count and 13.6 percent by total amount."¹

The *Higher Education Act* currently provides rehabilitation opportunities for federal loan holders who have defaulted on student loans. H.R. 3621 seeks to expand rehabilitation opportunities with respect to private loans not only for those who defaulted but for those who are delinquent in repayment. While expanding the opportunities to a new class of borrowers, H.R. 3621 fails to define 'delinquent.' The inclusion of this vague language will impact a lender's ability to determine creditworthiness or a borrower's ability to repay.

Committee Republicans view this legislation as a solution in search of a problem and an attempt by Democrats to appear as if they are helping students impacted by the student loan debt. Instead, H.R. 3621 offers little more than window dressing given the small number of borrowers covered by the protections set out in the bill. During the markup of H.R. 3621, Congressman Hill offered an amendment to expand the bill to cover all education loans, not just those made by financial institutions. The amendment was ruled non-germane by the Chairwoman.

¹ <https://ifap.ed.gov/eannouncements/080719FSAPostsNewReportsToFSADataCenter.html>.

Further, Committee Republicans recognize the importance of financial literacy training and the impact it can have on a consumer's financial health. Congressman Gooden offered an amendment during the markup that would require a delinquent student loan borrower to complete financial literacy training in addition to the rehabilitation requirements of this legislation. This common-sense amendment is in line with the recent House-passed legislation that would allow the U.S. Department of Housing and Urban Development to provide a discount on Federal Housing Authority single-family mortgage insurance premiums for first-time homebuyers who complete a housing counseling program. Financial literacy programs are effective tools and have proven to reduce mortgage delinquency rates, and this training would undoubtedly benefit all consumers, particularly those that have found themselves in circumstances of delinquency or default. Unfortunately, Congressman Gooden's amendment was rejected by a party line vote of 25-33.

Committee Republicans remain concerned by the student loan debt crisis facing millions of Americans and believe a comprehensive and thoughtfully-crafted bill should be pursued by the committees of jurisdiction. However, legislation that prevents the disclosure of adverse information relating to a delinquent or defaulted student loan fails to address the underlying issues and is a solution in search of a problem. This undermines the underwriting that is central to the credit reporting system and could ultimately lead to increased costs of credit for millions of American borrowers.

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