

109TH CONGRESS  
1ST SESSION

# H. R. 1089

To amend the Higher Education Act of 1965 to improve the opportunity for Federal student loan borrowers to consolidate their loans at reasonable interest rates.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2005

Mr. DAVIS of Illinois introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Higher Education Act of 1965 to improve the opportunity for Federal student loan borrowers to consolidate their loans at reasonable interest rates.

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 “Student Loan Fairness  
5 Consolidation Act of 2005”.

6 **SEC. 2. AUTHORITY TO REFINANCE EXISTING CONSOLIDA-**  
7 **TION LOANS.**

8 (a) FFEL CONSOLIDATION LOANS.—Section  
9 428C(a)(3)(B) of the Higher Education Act of 1965 (20

1 U.S.C. 1078–3(a)(3)(B)) is amended by adding at the end  
2 the following new clause:

3 “(ii) Notwithstanding clause (i) of this subpara-  
4 graph, a borrower of a consolidation loan on which  
5 the interest is established at a fixed rate under sec-  
6 tion 427A, 428C(e), or 455 may obtain a subsequent  
7 consolidation loan for the purposes of refinancing  
8 such earlier consolidation loan at a variable rate of  
9 interest under section 427A(m) or 455(b)(8), except  
10 that the authority to refinance a consolidation loan  
11 under this clause shall not apply to a consolidation  
12 loan that was used exclusively to repay loans made  
13 under section 428B or Federal Direct PLUS Loans  
14 (or both such loans).”.

15 (b) PARALLEL TERMS FOR FEDERAL DIRECT CON-  
16 SOLIDATION LOANS.—Section 455(a) of the Higher Edu-  
17 cation Act of 1965 (20 U.S.C. 1087e(a)) is amended—

18 (1) in paragraph (1), by inserting “428C,”  
19 after “428B,”; and

20 (2) in paragraph (2)—

21 (A) by striking “and” at the end of sub-  
22 paragraph (B);

23 (B) by redesignating subparagraph (C) as  
24 subparagraph (D); and

1 (C) by inserting after subparagraph (B)  
 2 the following:

3 “(C) section 428C shall be known as ‘Fed-  
 4 eral Direct Consolidation Loans’.”.

5 **SEC. 3. AVAILABILITY OF VARIABLE INTEREST RATE CON-**  
 6 **SOLIDATION LOANS.**

7 (a) FFEL CONSOLIDATION LOANS.—Section 427A  
 8 of the Higher Education Act of 1965 (20 U.S.C. 1077a)  
 9 is amended—

10 (1) by redesignating subsections (m) and (n) as  
 11 subsections (n) and (o), respectively; and

12 (2) by inserting after subsection (l) the fol-  
 13 lowing:

14 “(m) VARIABLE INTEREST RATE CONSOLIDATION  
 15 LOANS.—

16 “(1) VARIABLE RATE.—Notwithstanding sub-  
 17 sections (h), (k), and (l), with respect to any loan  
 18 made pursuant to section 428C for which the first  
 19 disbursement is made on or after the date of enact-  
 20 ment of the Student Loan Fairness Consolidation  
 21 Act of 2005, the applicable rate of interest shall,  
 22 during any 12-month period beginning on July 1  
 23 and ending on June 30, be determined on the pre-  
 24 ceding June 1 and be equal to—

1           “(A) the bond equivalent rate of 91-day  
2           Treasury bills auctioned at the final auction  
3           held prior to such June 1; plus

4           “(B) 2.3 percent,  
5           except that such rate shall not exceed 8.25 percent.

6           “(2) RECOVERY OF EXCESS INTEREST.—If,  
7           with respect to a consolidation loan on which the ap-  
8           plicable interest rate is determined under this sub-  
9           section, the applicable interest rate for any 3-month  
10          period exceeds the special allowance rate applicable  
11          to such loan under section 438(b)(2)(I) for such pe-  
12          riod, then an adjustment shall be made—

13           “(A) by calculating the excess interest in  
14           the amount computed under paragraph (3) of  
15           this subsection; and

16           “(B) by crediting the excess interest to the  
17           Government.

18           “(3) AMOUNT OF ADJUSTMENT.—The amount  
19           of any adjustment of interest on a loan to be made  
20           under this subsection for any quarter shall be equal  
21           to—

22           “(A) the applicable interest rate minus the  
23           special allowance rate determined under section  
24           438(a)(2)(I); multiplied by

1 “(B) the average daily principal balance of  
2 the loan (not including unearned interest added  
3 to principal) during such calendar quarter; di-  
4 vided by

5 “(C) four.

6 “(4) INAPPLICABILITY TO CONSOLIDATION  
7 LOANS USED TO REPAY PLUS LOANS.—The provi-  
8 sions of paragraph (1) of this subsection shall not  
9 apply to a consolidation loan that was used exclu-  
10 sively to repay loans made under section 428B or  
11 Federal Direct PLUS Loans (or both such loans).”.

12 (b) FEDERAL DIRECT CONSOLIDATION LOANS.—  
13 Section 455(b) of the Higher Education Act of 1965 (20  
14 U.S.C. 1087e(b)) is amended—

15 (1) by redesignating paragraphs (8) and (9) as  
16 paragraphs (9) and (10), respectively; and

17 (2) by inserting after paragraph (7) the fol-  
18 lowing:

19 “(8) VARIABLE INTEREST RATE CONSOLIDA-  
20 TION LOANS.—

21 “(A) VARIABLE RATE.—Notwithstanding  
22 the preceding paragraphs of this subsection,  
23 with respect to any Federal Direct Consolida-  
24 tion Loan for which the first disbursement is  
25 made on or after the date of enactment of the

Student Loan Fairness Consolidation Act of 2005, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

“(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(ii) 2.3 percent, except that such rate shall not exceed 8.25 percent.

“(B) INAPPLICABILITY TO CONSOLIDATION LOANS USED TO REPAY PLUS LOANS.—The provisions of this subsection shall not apply to a consolidation loan that was used exclusively to repay loans made under section 428B or Federal Direct PLUS Loans (or both such loans).”.

(c) CONFORMING AMENDMENT.—Section 438(b)(2)(I) is amended by striking “section 427A(k)(4) or (l)(3)” each place it appears in clauses (iv) and (vi) and inserting “section 427A(k)(4), (l)(3), or (m)”.

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