

110TH CONGRESS  
1ST SESSION

# S. 1831

To amend the Truth in Lending Act, to improve disclosures for private student loans, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 19, 2007

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Truth in Lending Act, to improve disclosures for private student loans, and for other purposes.

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 “Private Student Loan  
5 Disclosure Enhancement Act of 2007”.

6 **SEC. 2. APPLICATION OF TRUTH IN LENDING ACT .**

7 Section 104(3) of the Truth in Lending Act (15  
8 U.S.C. 1603(3)) is amended by inserting before the period  
9 at the end the following “, and other than private edu-

1 cation loans, as that term is defined in section 128(e), re-  
 2 gardless of the amount financed”.

3 **SEC. 3. ENHANCED DISCLOSURES FOR PRIVATE STUDENT**  
 4 **LOANS.**

5 (a) IN GENERAL.—Section 128 of the Truth in Lend-  
 6 ing Act (15 U.S.C. 1638) is amended by adding at the  
 7 end the following:

8 “(e) TERMS AND DISCLOSURE WITH RESPECT TO  
 9 PRIVATE STUDENT LOANS.—

10 “(1) DISCLOSURES REQUIRED IN PRIVATE STU-  
 11 DENT LOAN APPLICATIONS AND SOLICITATIONS.—In  
 12 any application for a private student loan, or a solici-  
 13 tation for a private student loan without requiring  
 14 an application, the lender shall disclose to the bor-  
 15 rower, clearly and conspicuously—

16 “(A) the potential range of annual percent-  
 17 age rates of interest applicable to the private  
 18 student loan;

19 “(B) whether the rate of interest applica-  
 20 ble to the private student loan is fixed or vari-  
 21 able;

22 “(C) limitations on interest rate adjust-  
 23 ments, both in terms of frequency and amount,  
 24 or the lack thereof;

1           “(D) requirements for a parent or co-bor-  
2           rower, including any changes in the applicable  
3           interest rates without a parent or co-borrower;

4           “(E) all potential finance charges, late  
5           fees, penalties, and adjustments to principal,  
6           based on transgressions of the borrower;

7           “(F) fees or range of fees (along with basis  
8           for variations in fees) applicable to the private  
9           student loan;

10          “(G) the term of loan;

11          “(H) whether interest will accrue while the  
12          student to whom the private student loan re-  
13          lates is enrolled at an institution of higher edu-  
14          cation;

15          “(I) payment deferral options, including  
16          whether the deferment would apply to interest  
17          or principal, or both;

18          “(J) if only principal may be deferred,  
19          whether the student may postpone the payment  
20          of interest by capitalization of the interest;

21          “(K) whether deferrals may be extended  
22          for additional periods of enrollment at an insti-  
23          tution of higher education;

24          “(L) the duration of any payment grace  
25          period;

1           “(M) eligibility criteria for the private stu-  
2           dent loan;

3           “(N) 3 examples of the total cost of the  
4           private student loan over the life of the loan—

5                   “(i) 2 of which shall be calculated  
6                   using the same principal amount, one of  
7                   those using the maximum possible rate of  
8                   interest (or 36 percent, if no maximum  
9                   amount is specified in the terms of the  
10                  loan); and

11                   “(ii) calculated both with and without  
12                  capitalization of interest if that is an op-  
13                  tion for postponing interest payments;

14           “(O) in any case in which the applicable  
15           rate of interest is variable, a disclosure that in-  
16           terest rates are variable and that any projected  
17           cost at less than the maximum rate of interest  
18           is likely to go up significantly;

19           “(P) a statement that an institution of  
20           higher education may have school-specific stu-  
21           dent loan benefits and terms not detailed on the  
22           disclosure form; and

23           “(Q) such other information as the Board  
24           shall prescribe, by rule, as necessary for con-  
25           sumers to make informed borrowing decisions.

1           “(2) DISCLOSURES AT THE TIME OF PRIVATE  
2           STUDENT LOAN APPROVAL.—Contemporaneously  
3           with the approval of a private student loan applica-  
4           tion, and before the loan transaction is con-  
5           summated, the lender shall disclose to the borrower,  
6           clearly and conspicuously—

7                   “(A) the applicable rate of interest;

8                   “(B) whether the rate of interest applica-  
9                   ble to the private student loan is fixed or vari-  
10                  able;

11                  “(C) limitations on interest rate adjust-  
12                  ments, both in terms of frequency and amount,  
13                  or the lack thereof;

14                  “(D) the principal amount for repayment;

15                  “(E) the applicable annual percentage rate  
16                  (or ‘APR’) with respect to the private student  
17                  loan;

18                  “(F) applicable finance charges, late fees,  
19                  penalties, and adjustments to principal, based  
20                  upon borrower transgressions;

21                  “(G) fees upon disbursement of the private  
22                  student loan;

23                  “(H) the term of the private student loan;

24                  “(I) the monthly payment, calculated using  
25                  the rate of interest in effect on the date of ap-

1           proval, initially required after the student to  
2           whom the private student loan relates is no  
3           longer enrolled at an institution of higher edu-  
4           cation, and the maximum monthly payment to  
5           which such amount could increase if rates are  
6           variable, which amounts shall be calculated—

7                   “(i) using the principal amount that  
8                   will be in effect at that post-enrollment  
9                   time (incorporating accrual of interest dur-  
10                  ing the educational years, if applicable),  
11                  rather than at the time of consummation  
12                  of the loan; and

13                  “(ii) in the case of a variable rate pri-  
14                  vate student loan that has no cap on the  
15                  rate of interest, assuming a maximum in-  
16                  terest rate of 36 percent;

17                  “(J) an estimate of the total amount for  
18                  repayment, at both the interest rate in effect on  
19                  the date of approval, and at the maximum pos-  
20                  sible rate of interest if the rate is variable (as-  
21                  suming a maximum rate of 36 percent if no  
22                  maximum rate is specified by the terms of the  
23                  loan);

24                  “(K) any principal and interest payments  
25                  required while the student to whom the private

1 student loan relates is enrolled at an institution  
2 of higher education and interest which will ac-  
3 crue during such enrollment;

4 “(L) payment deferral options, including  
5 whether the deferment would apply to interest  
6 or principal, or both;

7 “(M) if only principal may be deferred,  
8 whether the student may postpone the payment  
9 of interest by capitalization of the interest;

10 “(N) whether deferrals may be extended  
11 for additional periods of enrollment at an insti-  
12 tution of higher education;

13 “(O) the duration of any payment grace  
14 period;

15 “(P) any penalty for early repayment of  
16 the private student loan;

17 “(Q) whether monthly payments are grad-  
18 uated;

19 “(R) that the borrower shall have 30 cal-  
20 endar days following the date on which the ap-  
21 plication for the private education loan is ap-  
22 proved and the borrower receives the disclosure  
23 documents required under this subsection for  
24 the loan, to accept the terms of the private edu-  
25 cation loan and consummate the transaction,

1           and the rates and terms of the loan may not be  
2           changed by the lender during that period; and

3           “(S) such other information as the Board  
4           shall prescribe, by rule, as necessary for con-  
5           sumers to make informed borrowing decisions.

6           “(3) FORMAT OF DISCLOSURES.—Disclosures  
7           required under paragraphs (1) and (2) shall appear  
8           in a clearly legible (not less than 12-point font), uni-  
9           form format, subject to section 122(c).

10          “(4) EFFECTIVE PERIOD OF APPROVED RATE  
11          OF INTEREST AND LOAN TERMS.—With respect to a  
12          private student loan, the borrower shall have 30 cal-  
13          endar days following the date on which the applica-  
14          tion for the private education loan is approved and  
15          the borrower receives the disclosure documents re-  
16          quired under this subsection for the loan to accept  
17          the terms of the loan and consummate the trans-  
18          action, and the rates and terms of the loan may not  
19          be changed by the lender during that period, subject  
20          to the rules of the Board.

21          “(5) DEFINITIONS.—For purposes of this sub-  
22          section—

23                  “(A) the term ‘institution of higher edu-  
24                  cation’ has the same meaning as in section 102

1 of the Higher Education Act of 1965 (20  
2 U.S.C. 1002);

3 “(B) the term ‘lender’ means a creditor,  
4 other than an issuer of credit under a residen-  
5 tial mortgage transaction, and any agent there-  
6 of; and

7 “(C) the term ‘private education loan’  
8 means a private loan provided by a lender  
9 that—

10 “(i) is not made, insured, or guaran-  
11 teed under any Federal, State, or local  
12 government unit, including under subtitle  
13 B of title IV of the Higher Education Act  
14 of 1965 (20 U.S.C. 1070 et seq.); and

15 “(ii) is issued by a lender for postsec-  
16 ondary educational expenses to a student,  
17 or the parent of the student, regardless of  
18 whether the loan is provided through the  
19 educational institution that the student at-  
20 tends or directly to the student or parent  
21 from the lender.”.

22 (b) REGULATIONS TO CARRY OUT PRIVATE EDU-  
23 CATION LOAN DISCLOSURES.—

24 (1) IN GENERAL.—The Board of Governors of  
25 the Federal Reserve System (in this section referred

1 to as the “Board”) shall issue regulations in final  
2 form to carry out section 128(e) of the Truth in  
3 Lending Act, as added by this section, not later than  
4 6 months after the date of enactment of this Act.

5 (2) DEVELOPMENT AND TESTING OF DISCLO-  
6 SURE STATEMENT.—The Board shall, in issuing reg-  
7 ulations under paragraph (1), develop and test for  
8 readability a disclosure statement for student bor-  
9 rowers that is consistent with the requirements of  
10 section 122(c) of the Truth in Lending Act (15  
11 U.S.C. 1638(e)).

12 (c) CONFORMING AMENDMENT.—Section 122(c) of  
13 the Truth in Lending Act (15 U.S.C. 1632(c)) is amended  
14 by inserting “and in section 128(e)” before “shall be”.

15 **SEC. 4. ENFORCEMENT OF REQUIREMENTS FOR PRIVATE**  
16 **EDUCATION LOANS.**

17 Section 130 of the Truth in Lending Act (15 U.S.C.  
18 1640) is amended—

19 (1) in subsection (a), in the fourth sentence of  
20 the undesignated matter at the end, by inserting “or  
21 section 128(e),” before “or for failing”; and

22 (2) in subsection (e), in the first sentence, by  
23 inserting before the period the following: “, except  
24 that, in the case of a private education loan (as de-  
25 fined in section 127(e)), such an action may be

1 brought not later than one year after the date on  
 2 which the first monthly payment on the loan is due  
 3 after the student to whom the private student loan  
 4 relates is no longer enrolled at an institution of  
 5 higher education, unless full repayment begins ear-  
 6 lier with no deferral of interest or principal”.

7 **SEC. 5. DISCLOSURES OF FEDERAL LOAN AVAILABILITY.**

8 (a) **DISCLOSURE REQUIRED.**—The Board shall issue  
 9 regulations in final form not later than 6 months after  
 10 the date of enactment of this Act to require each lender  
 11 to disclose in accordance with subsection (b), contempora-  
 12 neously with the disclosures required under paragraphs  
 13 (1) and (2) of section 128(e) of the Truth in Lending Act  
 14 (as added by this Act), that the student borrower may be  
 15 eligible for a Federal education loan.

16 (b) **DEVELOPMENT AND TESTING OF DISCLOSURE**  
 17 **STATEMENT.**—The Board shall, in issuing regulations  
 18 under subsection (a), develop and test for readability a  
 19 disclosure statement for student borrowers that—

20 (1) encourages students to maximize their use  
 21 of Federal education loans;

22 (2) discloses that Federal educational loans are  
 23 less costly than private education loans; and

24 (3) discloses the average rate of interest for  
 25 Federal educational loans.

1 (c) FORMAT.—The disclosures developed under this  
2 section shall be made in clear language and in a con-  
3 spicuous location separate from the disclosures made  
4 under section 128(e) of the Truth in Lending Act, as  
5 added by this Act, using at least size 12 point font.

6 (d) DEFINITIONS.—As used in this section—

7 (1) the term “Board” means the Board of Gov-  
8 ernors of the Federal Reserve System ;

9 (2) the term “Federal education loan” means a  
10 loan that is —

11 (A) made, insured, or guaranteed under  
12 title IV of the Higher Education Act of 1965  
13 (20 U.S.C. 1070 et seq.); and

14 (B) is issued for postsecondary educational  
15 expenses to a student, or the parent of the stu-  
16 dent, regardless of whether the loan is provided  
17 through the educational institution that the stu-  
18 dent attends or directly to the student or par-  
19 ent from the lender;

20 (3) the term “institution of higher education”  
21 has the same meaning as in section 102 of the High-  
22 er Education Act of 1965 (20 U.S.C. 1002);

23 (4) the term “lender” means a creditor, other  
24 than an issuer of credit under a residential mortgage  
25 transaction, and any agent thereof, as those terms

1 are defined in section 103 of the Truth in Lending  
2 Act; and

3 (5) the term “private education loan” means a  
4 private loan provided by a lender that—

5 (A) is not made, insured, or guaranteed  
6 under any Federal, State, or local government  
7 unit, including under subtitle B of title IV of  
8 the Higher Education Act of 1965 (20 U.S.C.  
9 1070 et seq.); and

10 (B) is issued by a lender for postsecondary  
11 educational expenses to a student, or the parent  
12 of the student, regardless of whether the loan  
13 is provided through the educational institution  
14 that the student attends or directly to the stu-  
15 dent or parent from the lender.

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