

112TH CONGRESS
2D SESSION

H. R. 6273

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require certain creditors to obtain certifications from institutions of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. POLIS (for himself, Mr. BISHOP of New York, and Ms. SCHWARTZ) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require certain creditors to obtain certifications from institutions of higher education, 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 “Know Before You Owe
5 Private Student Loan Act of 2012”.

1 **SEC. 2. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

2 (a) IN GENERAL.—Section 128(e) of the Truth in
3 Lending Act (15 U.S.C. 1638(e)) is amended—

4 (1) by striking paragraph (3) and inserting the
5 following:

6 “(3) INSTITUTIONAL CERTIFICATION RE-
7 QUIRED.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), before a creditor may issue
10 any funds with respect to an extension of credit
11 described in this subsection, the creditor shall
12 obtain from the relevant institution of higher
13 education where such loan is to be used for a
14 student, such institution’s certification of—

15 “(i) the enrollment status of the stu-
16 dent;

17 “(ii) the student’s cost of attendance
18 at the institution as determined by the in-
19 stitution under part F of title IV of the
20 Higher Education Act of 1965; and

21 “(iii) the difference between—

22 “(I) such cost of attendance; and

23 “(II) the student’s estimated fi-
24 nancial assistance, including such as-
25 sistance received under title IV of the
26 Higher Education Act of 1965 and

1 other financial assistance known to
2 the institution, as applicable.

3 “(B) EXCEPTION.—Notwithstanding sub-
4 paragraph (A), a creditor may issue funds with
5 respect to an extension of credit described in
6 this subsection without obtaining from the rel-
7 evant institution of higher education such insti-
8 tution’s certification if such institution fails to
9 provide within 15 business days of the credi-
10 tor’s request for such certification—

11 “(i) the requested certification; or

12 “(ii) notification that the institution
13 has received the request for certification
14 and will need additional time to comply
15 with the certification request.

16 “(C) LOANS DISBURSED WITHOUT CER-
17 TIFICATION.—If a creditor issues funds without
18 obtaining a certification, as described in sub-
19 paragraph (B), such creditor shall report the
20 issuance of such funds in a manner determined
21 by the Director of the Consumer Financial Pro-
22 tection Bureau.”;

23 (2) by redesignating paragraphs (9), (10), and
24 (11) as paragraphs (10), (11), and (12), respec-
25 tively; and

(3) by inserting after paragraph (8) the following:

“(9) PROVISION OF INFORMATION.—

“(A) PROVISION OF INFORMATION TO STUDENTS.—

“(i) LOAN STATEMENT.—A creditor that issues any funds with respect to an extension of credit described in this subsection shall send loan statements, where such loan is to be used for a student, to borrowers of such funds not less than once every 3 months during the time that such student is enrolled at an institution of higher education.

“(ii) CONTENTS OF LOAN STATEMENT.—Each statement described in clause (i) shall—

“(I) report the borrower’s total remaining debt to the creditor, including accrued but unpaid interest and capitalized interest;

“(II) report any debt increases since the last statement; and

“(III) list the current interest rate for each loan.

1 “(B) NOTIFICATION OF LOANS DISBURSED
2 WITHOUT CERTIFICATION.—On or before the
3 date a creditor issues any funds with respect to
4 an extension of credit described in this sub-
5 section, the creditor shall notify the relevant in-
6 stitution of higher education, in writing, of the
7 amount of the extension of credit and the stu-
8 dent on whose behalf credit is extended. The
9 form of such written notification shall be sub-
10 ject to the regulations of the Consumer Finan-
11 cial Protection Bureau.

12 “(C) ANNUAL REPORT.—A creditor that
13 issues funds with respect to an extension of
14 credit described in this subsection shall prepare
15 and submit an annual report to the Consumer
16 Financial Protection Bureau containing the re-
17 quired information about private student loans
18 to be determined by the Consumer Financial
19 Protection Bureau, in consultation with the
20 Secretary of Education.”.

21 (b) DEFINITION OF PRIVATE EDUCATION LOAN.—
22 Section 140(a)(7)(A) of the Truth in Lending Act (15
23 U.S.C. 1650(a)(7)(A)) is amended—

24 (1) by redesignating clause (ii) as clause (iii);

1 (2) in clause (i), by striking “and” after the
2 semicolon; and

3 (3) by adding after clause (i) the following:

4 “(ii) is not made, insured, or guaran-
5 teed under title VII or title VIII of the
6 Public Health Service Act (42 U.S.C. 292
7 et seq. and 296 et seq.); and”.

8 (c) REGULATIONS.—Not later than 365 days after
9 the date of enactment of this Act, the Consumer Financial
10 Protection Bureau shall issue regulations in final form to
11 implement paragraphs (3) and (9) of section 128(e) of the
12 Truth in Lending Act (15 U.S.C. 1638(e)), as amended
13 by subsection (a). Such regulations shall become effective
14 not later than 6 months after their date of issuance.

15 **SEC. 3. AMENDMENT TO THE HIGHER EDUCATION ACT OF**
16 **1965.**

17 (a) AMENDMENT TO THE HIGHER EDUCATION ACT
18 OF 1965.—Section 487(a) of the Higher Education Act
19 of 1965 (20 U.S.C. 1094(a)) is amended by striking para-
20 graph (28) and inserting the following:

21 “(28)(A) The institution shall—

22 “(i) upon the request of a private edu-
23 cational lender, acting in connection with
24 an application initiated by a borrower for
25 a private education loan in accordance with

1 section 128(e)(3) of the Truth in Lending
2 Act, provide certification to such private
3 educational lender—

4 “(I) that the student who initi-
5 ated the application for the private
6 education loan, or on whose behalf the
7 application was initiated, is enrolled
8 or is scheduled to enroll at the institu-
9 tion;

10 “(II) of such student’s cost of at-
11 tendance at the institution as deter-
12 mined under part F of this title; and

13 “(III) of the difference be-
14 tween—

15 “(aa) the cost of attendance
16 at the institution; and

17 “(bb) the student’s esti-
18 mated financial assistance re-
19 ceived under this title and other
20 assistance known to the institu-
21 tion, as applicable; and

22 “(ii) provide the certification de-
23 scribed in clause (i), or notify the creditor
24 that the institution has received the re-
25 quest for certification and will need addi-

1 tional time to comply with the certification
2 request—

3 “(I) within 15 business days of
4 receipt of such certification request;
5 and

6 “(II) only after the institution
7 has completed the activities described
8 in subparagraph (B).

9 “(B) The institution shall, upon receipt of
10 a certification request described in subpara-
11 graph (A)(i), and prior to providing such cer-
12 tification—

13 “(i) determine whether the student
14 who initiated the application for the pri-
15 vate education loan, or on whose behalf the
16 application was initiated, has applied for
17 and exhausted the Federal financial assist-
18 ance available to such student under this
19 title and inform the student accordingly;
20 and

21 “(ii) provide the borrower whose loan
22 application has prompted the certification
23 request by a private education lender, as
24 described in subparagraph (A)(i), with the
25 following information and disclosures:

1 “(I) The availability of, and the
2 borrower’s potential eligibility for,
3 Federal financial assistance under this
4 title, including disclosing the terms,
5 conditions, interest rates, and repay-
6 ment options and programs of Federal
7 student loans.

8 “(II) The borrower’s ability to
9 select a private educational lender of
10 the borrower’s choice.

11 “(III) The impact of a proposed
12 private education loan on the bor-
13 rower’s potential eligibility for other
14 financial assistance, including Federal
15 financial assistance under this title.

16 “(IV) The borrower’s right to ac-
17 cept or reject a private education loan
18 within the 30-day period following a
19 private educational lender’s approval
20 of a borrower’s application and about
21 a borrower’s 3-day right to cancel pe-
22 riod.

23 “(C) For purposes of this paragraph, the
24 terms ‘private educational lender’ and ‘private
25 education loan’ have the meanings given such

1 terms in section 140 of the Truth in Lending
2 Act (15 U.S.C. 1650).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the effective date of the
5 regulations described in section 2(c).

6 **SEC. 4. REPORT.**

7 Not later than 24 months after the issuance of regu-
8 lations under section 2(c), the Director of the Consumer
9 Financial Protection Bureau and the Secretary of Edu-
10 cation shall jointly submit to Congress a report on the
11 compliance of institutions of higher education and private
12 educational lenders with section 128(e)(3) of the Truth
13 in Lending Act (15 U.S.C. 1638(e)), as amended by sec-
14 tion 2, and section 487(a)(28) of the Higher Education
15 Act of 1965 (20 U.S.C. 1094(a)), as amended by section
16 3. Such report shall include information about the degree
17 to which specific institutions utilize certifications in effec-
18 tively encouraging the exhaustion of Federal student loan
19 eligibility and lowering student private education loan
20 debt.

○