

113TH CONGRESS
1ST SESSION

H. R. 3612

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

NOVEMBER 21, 2013

Mr. POLIS (for himself, Ms. SCHWARTZ, and Mr. BISHOP of New York) 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 2013”.

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 Bureau.”;

22 (2) by redesignating paragraphs (9), (10), and
23 (11) as paragraphs (10), (11), and (12), respec-
24 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 Bureau.

11 “(C) ANNUAL REPORT.—A creditor that
12 issues funds with respect to an extension of
13 credit described in this subsection shall prepare
14 and submit an annual report to the Bureau
15 containing the required information about pri-
16 vate student loans to be determined by the Bu-
17 reau, in consultation with the Secretary of Edu-
18 cation.”.

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

- 22 (1) by redesignating clause (ii) as clause (iii);
23 (2) in clause (i), by striking “and” after the
24 semicolon; and
25 (3) by adding after clause (i) the following:

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

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

12 **SEC. 3. AMENDMENT TO THE HIGHER EDUCATION ACT OF**
 13 **1965.**

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

18 “(28)(A) The institution shall—

19 “(i) upon the request of a private edu-
 20 cational lender, acting in connection with
 21 an application initiated by a borrower for
 22 a private education loan in accordance with
 23 section 128(e)(3) of the Truth in Lending
 24 Act, provide certification to such private
 25 educational lender—

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

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

10 “(III) of the difference be-
11 tween—

12 “(aa) the cost of attendance
13 at the institution; and

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

19 “(ii) provide the certification de-
20 scribed in clause (i), or notify the creditor
21 that the institution has received the re-
22 quest for certification and will need addi-
23 tional time to comply with the certification
24 request—

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

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

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

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

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

24 “(I) The availability of, and the
25 borrower’s potential eligibility for,

1 Federal financial assistance under this
2 title, including disclosing the terms,
3 conditions, interest rates, and repay-
4 ment options and programs of Federal
5 student loans.

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

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

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

21 “(C) For purposes of this paragraph, the
22 terms ‘private educational lender’ and ‘private
23 education loan’ have the meanings given such
24 terms in section 140 of the Truth in Lending
25 Act (15 U.S.C. 1650).”.

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

4 **SEC. 4. REPORT.**

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

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