

114TH CONGRESS
1ST SESSION

H. R. 3786

To amend the Higher Education Act of 1965 and the Truth in Lending Act to clarify the application of prepayment amounts on student loans.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 2015

Mrs. DAVIS of California (for herself and Mr. PETERS) 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 Higher Education Act of 1965 and the Truth in Lending Act to clarify the application of prepayment amounts on student loans.

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 Fair
5 Prepayment Act”.

1 **SEC. 2. APPLICATION OF PREPAYMENT AMOUNTS FOR**
2 **FFEL AND DIRECT LOANS.**

3 Section 455(d) of the Higher Education Act of 1965
4 (20 U.S.C. 1087e(d)) is amended by adding at the end
5 the following new paragraph:

6 “(6) APPLICATION OF PREPAYMENT
7 AMOUNTS.—

8 “(A) REQUIREMENT.—Notwithstanding
9 any other provision of this subsection or any
10 other provision of law—

11 “(i) with respect to loans made to an
12 eligible borrower under this part or part B,
13 which are held by the same holder and
14 which have different applicable rates of in-
15 terest, the holder of such loans shall, un-
16 less otherwise requested by the borrower in
17 writing, apply the borrower’s prepayment
18 amount (within the meaning of section
19 682.209(b) of title 34, Code of Federal
20 Regulations, or a successor regulation) for
21 one or more of such loans, first toward the
22 outstanding balance of principal due on the
23 loan with the highest applicable rate of in-
24 terest among such loans; and

25 “(ii) except as provided in clause (i),
26 with respect to loans made to an eligible

1 borrower under this part or part B, which
2 are held by the same holder and which
3 have the same applicable rates of interest,
4 the holder of such loans shall, unless other-
5 wise requested by the borrower in writing,
6 apply the borrower's prepayment amount
7 (within the meaning of section 682.209(b)
8 of title 34, Code of Federal Regulations, or
9 a successor regulation) for one or more of
10 such loans, first toward the outstanding
11 balance of principal due on the loan with
12 the highest principal balance among such
13 loans.

14 “(B) ELIGIBLE BORROWER.—

15 “(i) IN GENERAL.—For purposes of
16 this paragraph, the term ‘eligible borrower’
17 means a borrower with no outstanding bal-
18 ance of fees, including collection costs and
19 authorized late charges, due on any loan
20 made under this part or part B.

21 “(ii) PREPAYMENT AMOUNTS.—A pre-
22 payment amount (as described in subpara-
23 graph (A)) made by a borrower who is not
24 an eligible borrower to a holder shall be
25 applied first toward the borrower's out-

standing balance of fees, including collection costs and authorized late charges, due on any loan made under this part or part B held by such holder.

“(C) EXCEPTIONS.—This paragraph shall not apply to an income-based repayment plan under section 493C or an income contingent repayment plan under section 455(d)(1)(D), such as a Pay As You Earn repayment plan.”.

SEC. 3. APPLICATION OF PREPAYMENT AMOUNTS FOR PERKINS LOANS.

Section 464(c)(1)(C) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(1)(C)) is amended—

(1) by striking “and” at the end of clause (i);

(2) by adding at the end the following:

“(iii) shall provide that the institution shall, in the case of a borrower with no outstanding balance of fees (including collection costs and authorized late charges) due on the loans held by the institution and who repays more than the amount due for a repayment period—

“(I) with respect to loans held by the same institution and which have different applicable rates of interest,

1 use the excess to prepay (within the
2 meaning of section 674.31(b)(4)(iv) of
3 title 34, Code of Federal Regulations,
4 or a successor regulation) the prin-
5 cipal due on the loan with the highest
6 applicable rate of interest among such
7 loans, unless otherwise requested by
8 the borrower in writing; and

9 “(II) except as provided in sub-
10 clause (I), with respect to loans held
11 by the same institution and which
12 have the same applicable rates of in-
13 terest, use the excess to prepay (with-
14 in the meaning of section
15 674.31(b)(4)(iv) of title 34, Code of
16 Federal Regulations, or a successor
17 regulation) the principal due on the
18 loan with the highest principal balance
19 among such loans, unless otherwise
20 requested by the borrower in writing;
21 and

22 “(iv) shall provide that the institution
23 shall, in the case of a borrower with an
24 outstanding balance of fees (such as collec-
25 tion costs and authorized late charges) due

on the loans held by the institution and who repays more than the amount due for a repayment period, first apply such excess toward such outstanding balance of fees;”.

SEC. 4. APPLICATION OF PREPAYMENT AMOUNTS FOR PRIVATE EDUCATION LOANS.

Section 128(e) of the Truth in Lending Act (15 U.S.C. 1638(e)) is amended by adding at the end the following:

“(12) APPLICATION OF PREPAYMENT AMOUNTS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law—

“(i) with respect to a borrower with more than one private education loan which are held by the same holder and which have different applicable rates of interest, the holder of such loans shall, unless otherwise requested by the borrower in writing, apply the borrower’s prepayment amount (within the meaning of section 682.209(b) of title 34, Code of Federal Regulations, or a successor regulation) for one or more of such loans, first toward the outstanding balance of principal due on the

1 loan with the highest applicable rate of in-
2 terest among such loans; and

3 “(ii) except as provided in clause (i),
4 with respect to a borrower with more than
5 one private education loan which are held
6 by the same holder and which have the
7 same applicable rates of interest, the hold-
8 er of such loans shall, unless otherwise re-
9 quested by the borrower in writing, apply
10 the borrower’s prepayment amount (within
11 the meaning of section 682.209(b) of title
12 34, Code of Federal Regulations, or a suc-
13 cessor regulation) for one or more of such
14 loans, first toward the outstanding balance
15 of principal due on the loan with the high-
16 est principal balance among such loans.

17 “(B) EXCEPTION.—

18 “(i) IN GENERAL.—Subparagraph (A)
19 shall not apply to any prepayment amount
20 made by a borrower to a holder if the bor-
21 rower has an outstanding balance of fees,
22 including collection costs and authorized
23 late charges, due on any private education
24 loan held by such holder.

1 “(ii) PREPAYMENT AMOUNTS.—A pre-
2 payment amount (as described in subpara-
3 graph (A)) made by a borrower described
4 in subparagraph (B) to a holder shall be
5 applied first toward the borrower’s out-
6 standing balance of fees, including collec-
7 tion costs and authorized late charges, due
8 on any private education loan held by such
9 holder.”.

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