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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Student Loan Fair Prepayment Act''.

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

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

"(6) APPLICATION OF PREPAYMENT AMOUNTS.—

"(A) REQUIREMENT.—Notwithstanding any other provision of this subsection or any other provision of law—

"(i) with respect to loans made to an eligible borrower under this part or part B, 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 loan with the highest applicable rate of interest among such loans; and

"(ii) except as provided in clause (i), with respect to loans made to an eligible borrower under this part or part B, which are held by the same holder and which have the same 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 loan with the highest principal balance among such loans.

"(B) ELIGIBLE BORROWER.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible borrower' means a borrower with no outstanding balance of fees, including collection costs and authorized late charges, due on any loan made under this part or part B.

"(ii) PREPAYMENT AMOUNTS.—A prepayment amount (as described in subparagraph (A)) made by a borrower who is not an eligible borrower to a holder shall be applied first toward the borrower's outstanding 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, use the excess to prepay (within the meaning of section 674.31(b)(4)(iv) of title 34, Code of Federal Regulations, or a successor regulation) the principal due on the loan with the highest applicable rate of interest among such loans, unless otherwise requested by the borrower in writing; and

"(II) except as provided in subclause (I), with respect to loans held by the same institution and which have the same applicable rates of interest, use the excess to prepay (within the meaning of section 674.31(b)(4)(iv) of title 34, Code of Federal Regulations, or a successor regulation) the principal due on the loan with the highest principal balance among such loans, unless otherwise requested by the borrower in writing; and

"(iv) shall provide that the institution shall, in the case of a borrower with an outstanding balance of fees (such as 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, 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 loan with the highest applicable rate of interest among such loans; and

"(ii) except as provided in clause (i), with respect to a borrower with more than one private education loan which are held by the same holder and which have the same 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 loan with the highest principal balance among such loans.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any prepayment amount made by a borrower to a holder if the borrower has an outstanding balance of fees, including collection costs and authorized late charges, due on any private education loan held by such holder.

"(ii) PREPAYMENT AMOUNTS.—A prepayment amount (as described in subparagraph (A)) made by a borrower described in subparagraph (B) to a holder shall be applied first toward the borrower's outstanding balance of fees, including collection costs and authorized late charges, due on any private education loan held by such holder.".

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