

114TH CONGRESS
1ST SESSION

H. R. 3948

To amend the Truth in Lending Act to include requirements for the transfer of servicing of postsecondary education loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2015

Mr. DEUTCH introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Education and the Workforce, 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 to include requirements for the transfer of servicing of postsecondary education 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 “Student Loan Trans-
5 fers Disclosure Act of 2015”.

1 **SEC. 2. IMPROVED CONSUMER PROTECTIONS FOR STU-**
2 **DENT LOAN SERVICING.**

3 (a) IN GENERAL.—Chapter 2 of title I of the Truth
4 in Lending Act (15 U.S.C. 1601 et seq.) is amended by
5 adding at the end the following new section:

6 **“§ 140B. Transfer of servicing of postsecondary edu-**
7 **cation loans**

8 “(a) TRANSFER OF SERVICING.—

9 “(1) DISCLOSURE REQUIRED.—A postsecondary
10 education lender shall disclose to each person who
11 applies for a postsecondary education loan, at the
12 time of application for such loan, whether there may
13 be a transfer of servicing of such loan at any time
14 during which a balance is due on such loan.

15 “(2) NO LIABILITY.—A postsecondary edu-
16 cation lender shall not be liable to a borrower for
17 failure to comply with paragraph (1) if the applica-
18 tion for a postsecondary education loan was made
19 before the rules or regulations established under
20 subsection (f) take effect.

21 “(b) NOTICE BY TRANSFEROR SERVICER AT TIME OF
22 TRANSFER OF SERVICING.—

23 “(1) IN GENERAL.—A transferor servicer shall
24 notify the borrower under a postsecondary education
25 loan of any transfer of student loan servicing for the

1 postsecondary education loan. Such notice shall be
2 made to the borrower—

3 “(A) not later than 15 days before the ef-
4 fective date of transfer of the student loan serv-
5 icing; or

6 “(B) not more than 30 days after the ef-
7 fective date of transfer of the student loan serv-
8 icing, if the transfer of such servicing is pre-
9 ceded by—

10 “(i) termination of the contract for
11 such servicing for cause;

12 “(ii) commencement of bankruptcy
13 proceedings of the transferor servicer; or

14 “(iii) any other situation in which the
15 Bureau determines that such exception is
16 warranted.

17 “(2) CONTENTS OF NOTICE.—The notice re-
18 quired under paragraph (1) shall be made in writing
19 and, if the transferor servicer has an email address
20 for the borrower, sent by email, and shall include—

21 “(A) the effective date of the transfer;

22 “(B) the name, address, website, and toll-
23 free or collect-call telephone number of the
24 transferee servicer;

1 “(C) a toll-free or collect-call telephone
2 number for an individual employed by the
3 transferor servicer, or the office or department
4 of, the transferor servicer that the borrower
5 may contact for inquiries relating to the trans-
6 fer of servicing;

7 “(D) the name and toll-free or collect-call
8 telephone number for an individual employed by
9 the transferee servicer, or the office or depart-
10 ment of, the transferee servicer that the bor-
11 rower may contact for inquiries relating to the
12 transfer of servicing;

13 “(E) the date on which the transferor
14 servicer will stop accepting payments relating to
15 the postsecondary education loan to be trans-
16 ferred and the date on which the transferee
17 servicer will begin to accept such payments;

18 “(F) a statement that the transfer of stu-
19 dent loan servicing of the postsecondary edu-
20 cation loan does not affect any term or condi-
21 tion of the postsecondary education loan other
22 than terms directly related to such student loan
23 servicing;

24 “(G) a statement disclosing—

1 “(i) whether borrower authorization
2 for recurring electronic funds transfers will
3 be transferred to the transferee servicer;
4 and

5 “(ii) if any such recurring electronic
6 funds transfers cannot be transferred, in-
7 formation as to how the borrower may es-
8 tablish new recurring electronic funds
9 transfers in connection with transfer of
10 servicing to the transferee servicer;

11 “(H) a statement disclosing—

12 “(i) the application of all payments
13 and charges relating to the postsecondary
14 education loan to be transferred as of the
15 effective date of the transfer, including—

16 “(I) the date the last payment of
17 the borrower was received;

18 “(II) the date the last late fee,
19 arrearage, or other charge was ap-
20 plied; and

21 “(III) the amount of the last
22 payment allocated to principal, inter-
23 est, and other charges;

24 “(ii) the status of such loan as of the
25 effective date of the transfer, including

1 whether the borrower is in default on the
2 loan;

3 “(iii) whether any application for an
4 alternative repayment arrangement sub-
5 mitted by the borrower is pending; and

6 “(iv) an itemization and explanation
7 for all arrearages claimed to be due as of
8 the effective date of the transfer;

9 “(I) a detailed description of any benefit,
10 alternative repayment arrangement, or other
11 term or condition arranged between the trans-
12 feror servicer and the borrower that is not in-
13 cluded in the terms of the loan agreement;

14 “(J) a detailed description of any item
15 under subparagraph (H) that will not apply
16 upon transfer, including an explanation of why
17 such item will not apply; and

18 “(K) information on how to file a com-
19 plaint against the transferor servicer with the
20 Bureau.

21 “(3) NOTICE BY TRANSFeree SERVICER AT
22 TIME OF TRANSFER OF SERVICING.—

23 “(A) IN GENERAL.—A transferee servicer
24 shall notify the borrower under a postsecondary
25 education loan, in writing, of any transfer of

1 student loan servicing of a postsecondary edu-
2 cation loan. Such notice shall be made to the
3 borrower—

4 “(i) not later than 15 days before the
5 effective date of transfer of the student
6 loan servicing; or

7 “(ii) not more than 30 days after the
8 effective date of transfer of the student
9 loan servicing, if the transfer of such serv-
10 icing is preceded by—

11 “(I) termination of the contract
12 for such servicing for cause;

13 “(II) commencement of bank-
14 ruptcy proceedings of the transferor
15 servicer; or

16 “(III) any other situation in
17 which the Bureau determines that
18 such exception is warranted.

19 “(B) CONTENTS OF NOTICE.—The notice
20 required under subparagraph (A) shall be made
21 in the same manner and include the same infor-
22 mation, as applicable, as described in paragraph
23 (2).

24 “(c) TREATMENT OF IMPROPERLY RECEIVED LOAN
25 PAYMENTS DURING TRANSFER PERIOD.—

1 “(1) IN GENERAL.—During the 60-day period
2 beginning on the effective date of transfer relating
3 to a postsecondary education loan to be transferred,
4 a late fee may not be imposed on the borrower with
5 respect to any payment on such loan, and no such
6 payment may be treated as late for any other pur-
7 poses if—

8 “(A) the payment is received by the trans-
9 feror servicer instead of the transferee servicer
10 (who should properly receive payment) before
11 the due date applicable to such payment; or

12 “(B) the payment is received by the trans-
13 feree servicer instead of the transferor servicer
14 (who should properly receive payment) before
15 the transfer is complete.

16 “(2) NOTICE.—To the maximum extent prac-
17 ticable, a transferor servicer shall notify a borrower,
18 both in writing and by telephone, regarding any pay-
19 ment described in paragraph (1).

20 “(d) ELECTRONIC FUND TRANSFER AUTHORITY.—
21 A transferee servicer shall make available to a borrower
22 whose student loan servicing is transferred to the trans-
23 feree servicer a simple, online process through which the
24 borrower may transfer to the transferee servicer any exist-

1 ing authority for an electronic fund transfer that the bor-
2 rower had provided to the transferor servicer.

3 “(e) SERVICER LIABILITY.—

4 “(1) EFFECTIVE DATE OF REGULATIONS.—A
5 student loan servicer shall not be liable to a bor-
6 rower for failure to comply with the requirements of
7 subsection (b) with respect to a transfer of student
8 loan servicing before the regulations under sub-
9 section (f) take effect.

10 “(2) MITIGATING ACTION.—A student loan
11 servicer or a postsecondary education lender shall
12 not be liable to a borrower for failure to comply with
13 a requirement under this section if, not later than
14 60 days after discovering an error and before the
15 commencement of an action under section 130 or
16 the receipt of written notice of the error from the
17 borrower, the student loan servicer notifies the bor-
18 rower of the error and makes any adjustments in the
19 appropriate account that are necessary to ensure
20 that the borrower will not be required to pay an
21 amount greater than the amount that the borrower
22 otherwise would have paid.

23 “(f) RULEMAKING.—The Bureau, in consultation
24 with the Secretary of Education, is authorized to prescribe
25 such rules and regulations, make such interpretations, and

1 grant such reasonable exemptions, in accordance with, and
2 as may be necessary to achieve the purposes of, this chap-
3 ter.

4 “(g) DEFINITIONS.—In this section, the following
5 definitions shall apply:

6 “(1) ALTERNATIVE REPAYMENT ARRANGE-
7 MENT.—The term ‘alternative repayment arrange-
8 ment’ means an agreed upon arrangement between
9 a loan holder (or, for a Federal Direct Loan or a
10 Federal Perkins Loan, the Secretary of Education or
11 the institution of higher education that made such
12 loan, respectively) or student loan servicer and a
13 borrower—

14 “(A) that is different than the terms of an
15 existing postsecondary education loan arrange-
16 ment or agreement; and

17 “(B) pursuant to which remittance of a
18 monthly payment—

19 “(i) satisfies the terms of the postsec-
20 ondary education loan; or

21 “(ii) is not required for a period of 1
22 or more months in order to satisfy the
23 terms of the postsecondary education loan
24 arrangement or agreement.

1 “(2) EFFECTIVE DATE OF TRANSFER.—The
2 term ‘effective date of transfer’ means the date on
3 which the first payment is due to a transferee
4 servicer from a borrower under a postsecondary edu-
5 cation loan.

6 “(3) FEDERAL DIRECT LOAN.—The term ‘Fed-
7 eral Direct Loan’ means a loan made under part D
8 of title IV of the Higher Education Act of 1965 (20
9 U.S.C. 1087a et seq.).

10 “(4) FEDERAL PERKINS LOAN.—The term
11 ‘Federal Perkins Loan’ means a loan made under
12 part E of title IV of the Higher Education Act of
13 1965 (20 U.S.C. 1087aa et seq.).

14 “(5) INSTITUTION OF HIGHER EDUCATION.—
15 The term ‘institution of higher education’ has the
16 meaning given that term in section 102 of the High-
17 er Education Act of 1965 (20 U.S.C. 1002).

18 “(6) LATE FEE.—The term ‘late fee’ means a
19 late fee, penalty, or adjustment to principal, imposed
20 because of a late payment or delinquency by the bor-
21 rower under a postsecondary education loan.

22 “(7) LOAN HOLDER.—The term ‘loan holder’
23 means a person who owns the title to or promissory
24 note for a postsecondary education loan (except for
25 a Federal Direct Loan or a Federal Perkins Loan).

1 “(8) POSTSECONDARY EDUCATION EXPENSE.—

2 The term ‘postsecondary education expense’ means
3 any expense that is included as part of the cost of
4 attendance (as that term is defined in section 472
5 of the Higher Education Act of 1965 (20 U.S.C.
6 1087ll)) of a student.

7 “(9) POSTSECONDARY EDUCATION LENDER.—

8 The term ‘postsecondary education lender’—

9 “(A) means—

10 “(i) a financial institution, as defined
11 in section 3 of the Federal Deposit Insur-
12 ance Act (12 U.S.C. 1813) that solicits,
13 makes, or extends postsecondary education
14 loans;

15 “(ii) a Federal credit union, as de-
16 fined in section 101 of the Federal Credit
17 Union Act (12 U.S.C. 1752) that solicits,
18 makes, or extends postsecondary education
19 loans; and

20 “(iii) any other person engaged in the
21 business of soliciting, making, or extending
22 postsecondary education loans; and

23 “(B) does not include—

24 “(i) the Secretary of Education; or

1 “(ii) an institution of higher education
2 with respect to any Federal Perkins Loan
3 made by the institution.

4 “(10) POSTSECONDARY EDUCATION LOAN.—
5 The term ‘postsecondary education loan’ means a
6 loan that is—

7 “(A) made, insured, or guaranteed under
8 part B, D, or E of title IV of the Higher Edu-
9 cation Act of 1965 (20 U.S.C. 1071 et seq.,
10 1087a et seq., 1087aa et seq.);

11 “(B) issued or made by a postsecondary
12 education lender and is—

13 “(i) extended to a borrower with the
14 expectation that the amounts extended will
15 be used in whole or in part to pay postsec-
16 ondary education expenses; or

17 “(ii) extended for the purpose of refi-
18 nancing or consolidating 1 or more loans
19 described in subparagraph (A); or

20 “(C) a private education loan (as defined
21 in section 140(a)).

22 “(11) STUDENT LOAN SERVICER.—The term
23 ‘student loan servicer’—

24 “(A) means a person who performs student
25 loan servicing;

1 “(B) includes a person performing student
2 loan servicing for a postsecondary education
3 loan on behalf of an institution of higher edu-
4 cation or the Secretary of Education under a
5 contract or other agreement;

6 “(C) does not include the Secretary of
7 Education to the extent the Secretary directly
8 performs student loan servicing for a postsec-
9 ondary education loan; and

10 “(D) does not include an institution of
11 higher education, to the extent that the institu-
12 tion directly performs student loan servicing for
13 a Federal Perkins Loan made by the institu-
14 tion.

15 “(12) STUDENT LOAN SERVICING.—The term
16 ‘student loan servicing’ means, with respect to a
17 postsecondary education loan, any of the following
18 activities:

19 “(A) Receiving any scheduled periodic pay-
20 ments, or notification of such payments, from a
21 borrower under a postsecondary education loan.

22 “(B) Applying payments described in sub-
23 paragraph (A) to an account of the borrower
24 pursuant to the terms of the postsecondary edu-

1 cation loan or of the contract governing the
2 servicing of the postsecondary education loan.

3 “(C) During a period in which no payment
4 is required on the postsecondary education
5 loan—

6 “(i) maintaining account records for
7 the loan; and

8 “(ii) communicating with the borrower
9 on behalf of the loan holder or, with re-
10 spect to a Federal Direct Loan or Federal
11 Perkins Loan, the Secretary of Education
12 or the institution of higher education that
13 made the loan, respectively.

14 “(D) Interacting with a borrower to facili-
15 tate the activities described in subparagraphs
16 (A), (B), and (C), including activities to help
17 prevent default by the borrower of the obliga-
18 tions arising from the postsecondary education
19 loan.

20 “(13) TRANSFER OF SERVICING.—The term
21 ‘transfer of servicing’ means the assignment, sale, or
22 transfer of any student loan servicing of a postsec-
23 ondary education loan from a transferor servicer to
24 a transferee servicer.

1 “(14) TRANSFEREE SERVICER.—The term
2 ‘transferee servicer’ means the student loan servicer
3 to whom any student loan servicing of a postsec-
4 ondary education loan is assigned, sold, or trans-
5 ferred.

6 “(15) TRANSFEROR SERVICER.—The term
7 ‘transferor servicer’ means the student loan servicer
8 who assigns, sells, or transfers any student loan
9 servicing of a postsecondary education loan to an-
10 other person.”.

11 (b) TABLE OF CONTENTS AMENDMENT.—The table
12 of contents for chapter 2 of title I of the Truth in Lending
13 Act is amended by inserting after the item relating to sec-
14 tion 140A the following new item:

 “140B. Transfer of servicing of postsecondary education loans.”.

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

17 The Higher Education Act of 1965 (20 U.S.C. 1001
18 et seq.) is amended—

19 (1) in section 487(a) (20 U.S.C. 1094(a)), by
20 adding at the end the following:

21 “(30) The institution will—

22 “(A) comply with the disclosure require-
23 ments for postsecondary education lenders
24 under section 140B(a) of the Truth in Lending
25 Act; and

1 “(B) ensure that each third party servicer
2 with which the institution has entered into a
3 contract complies with the applicable require-
4 ments for student loan servicers under section
5 140B of such Act.”; and

6 (2) in section 463A(b) (20 U.S.C. 1087cc-
7 1(b))—

8 (A) by striking “and” at the end of para-
9 graph (8);

10 (B) by striking the period at the end of
11 paragraph (9) and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(10) the disclosures for postsecondary edu-
14 cation lenders and student loan services under sec-
15 tion 140B of the Truth in Lending Act.”.

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