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114TH CONGRESS
1ST SESSION

S. 2050

To provide for the establishment of a mechanism to allow borrowers of private education loans to refinance their loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2015

Ms. HEITKAMP introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To provide for the establishment of a mechanism to allow borrowers of private education loans to refinance their loans, and for other purposes.

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 ''Private Education Loan Modification Act of 2015''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) as of 2015, the Federal Reserve Consumer Credit Report stated that there is more than $1,300,000,000,000 in outstanding student loan

debt in the United States, including more than $150,000,000,000 in private education loans;

(2) in 2008, 81 percent of individuals graduating with an undergraduate degree with more than $40,000 in student loans had a private education loan;

(3) according to a 2012 study of the private student loan market published by the Department of Education and the Bureau of Consumer Financial Protection, there were 850,000 private student loan defaults with an outstanding principal balance more than $8,000,000,000;

(4) the limited number of lenders in the private education loan marketplace reduce the ability of borrowers with private education loans to restructure, refinance, or negotiate repayment terms for their current loans, leading to excessive debt burdens and potential default;

(5) as reported by the Student Loan Ombudsman of the Consumer Financial Protection Bureau in the 2014 annual report, it appears that few, if any, private student lenders and loan servicers have developed transparent, widely offered flexible repayment options that mitigate defaults for borrowers in distress;

(6) excessive student indebtedness reduces economic activity, threatens homeownership, hurts small business growth, and limits opportunities for economic expansion across rural and urban communities; and

(7) as noted in 2013, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System encouraged financial institutions to work constructively with private student loan borrowers experiencing financial difficulties, so borrowers have access to safe-and-sound lending practices.

(b) PURPOSE.—The purpose of this Act is to spur economic growth, by establishing a mechanism to allow borrowers of private education loans to refinance their loans in order—

(1) to facilitate greater competition in the private education lending and refinancing markets, particularly those serving underserved and rural locations;

(2) to address inefficiencies in the private education lending and refinancing markets;

(3) to encourage innovation in the private education refinancing markets; and

(4) to promote the participation of private capital in the private education refinancing markets.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term ''private education loan'' has the same meaning as in section 140(a) of the Truth in Lending Act (15 U.S.C. 1650(a)); and

(2) the term ''Secretary'' means the Secretary of the Treasury, other than in the context of the Secretary of Education.

SEC. 4. TEMPORARY AUTHORITY TO CREATE A CREDIT FACILITY TO INCREASE MARKET EFFICIENCY IN THE STUDENT LOAN MARKET.

(a) AUTHORITY.—

(1) IN GENERAL.—

(A) CREDIT FACILITIES AUTHORIZATION.—Upon a determination by the Secretary that borrowers are unable to secure adequate credit accommodations with existing private education loans, the Secretary, notwithstanding any provision of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091), is authorized to establish lending, purchase, and other credit facilities to—

(i) accommodate reasonable refinancing opportunities or other loan adjustments that—

(I) improve the sustainability of payments for the borrower; and

(II) reduce the likelihood of delinquency and default on private education loans;

(ii) benefit borrowers that are most likely to have private student debt service obligations that represent a disproportionate share of their income; and

(iii) ensure that borrowers pay lower interest rates that are commensurate with credit risk, so that they may pursue more economically productive activities, such as home purchases and small business formation.

(B) CONSULTATION.—

(i) IN GENERAL.—Any determination under subparagraph (A) shall be made jointly with the Secretary of Education and the Director of the Bureau of Consumer Financial Protection.

(ii) COMPLIANCE SYSTEM.—Prior to establishing a facility under this subsection, the Secretary, or any administrator designated by the Secretary to establish a program to carry out the authority provided in this subsection, shall establish a compliance system in consultation with the Bureau of Consumer Financial Protection.

(2) NO NET COST TO GOVERNMENT.—Mechanisms established under this subsection shall not result in any net cost to the Federal Government, as determined jointly by the Secretary, the Secretary of Education, and the Director of the Office of Management and Budget.

(b) FEDERAL REGISTER NOTICE.—Prior to exercising any authority provided under subsection (a), the Secretary shall publish a notice in the Federal Register to seek comment from interested parties on its proposed exercise of such authority, including—

(1) the terms and conditions governing the lending, purchases, or other credit facilities authorized by subsection (a);

(2) an outline of methodology and factors considered in the purchase or restructuring of private education loans;

(3) private education loan modification options that may be available for existing loans;

(4) how they will ensure that borrowers whose education debt service obligations represent a disproportionate share of their income will be provided relief;

(5) how the use of the methodology and factors, as proposed in the notice, will be used to ensure that any exercise of authority by the Secretary will result in no net cost to the Federal Government; and

(6) how any mechanism will be designed to avoid extraordinary gains by market participants holding loans in distress.

(c) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that includes—

(1) current market liquidity and the status of loan financing by lenders, including those serving underserved and rural locations;

(2) the public economic benefits and funds necessary for initiating a private education loan program;

(3) upon determining limited access to loans by borrowers, a plan of the Secretary to implement credit mechanisms under the authority of this Act;

(4) a description of macroeconomic benefits of increased efficiency and refinance activity in the student loan market; and

(5) a description of the benefits through the use of such authority to private education loan borrowers, including how any incidental net gain from the credit mechanism would be used to benefit student borrowers.

(d) ANNUAL REPORTS.—Beginning 1 year after the date of the first use of the authority provided under this section, the Secretary shall provide an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the utilization, impact, and financial performance of any program established under the authority of this section.

(e) PUBLIC AWARENESS.—Not later than 60 days after the date of publication of a notice in the Federal Register pursuant to subsection (b), the Secretary, in consultation with the Secretary of Education and the Director of the Bureau of Consumer Financial Protection, shall begin a national awareness campaign to alert all private education loan borrowers who may benefit from any program or facilities established under this section. Such campaign shall include outreach to targeted populations of borrowers that are most likely to have private education loan debt service obligations that represent a disproportionate share of their income.

(f) EXPIRATION OF AUTHORITY.—Three years after the date on which a credit facility is established under this Act, and not later than 5 years after the date of enactment of this Act, any new lending, purchase, or other activity initiated through the facilities established by the Secretary under subsection (a) shall cease.

SEC. 5. SENSE OF CONGRESS.

It is the sense of Congress that the Federal financial institutions, such as the Federal Financing Bank and the Federal Reserve banks, and federally chartered private entities, such as the Federal home loan banks, should consider, in consultation with the Secretary, the Secretary of Education, and the Director of the Bureau of Consumer Financial Protection, using available authorities in a timely manner, if needed, to assist in ensuring that borrowers of private education loans can secure credit accommodations to refinance existing loans, in a manner that results in no increased costs to taxpayers and will avoid extraordinary gains by market participants holding loans in distress in order to avoid unnecessary loan modifications.

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