

**DURBIN-REED-WARREN-MURRAY-BROWN-BLUMENTHAL
STUDENT LOAN OMNIBUS AMENDMENT #2103
SECTION BY SECTION**

Rehabilitation of Private Education Loans

This section strikes the loan rehabilitation section in the underlying bill and replaces it with a provision that makes private student loan rehabilitation terms consistent with federal student loans and requires financial institutions to automatically seek correction of a borrower's credit history once a successful rehab has been completed.

Sec. 601 Student Loan Borrower Bill of Rights

- Establishes disclosure requirements and protections for borrowers when a postsecondary education loan is sold, transferred, or reassigned.
- Establishes disclosure requirements and protections when the interest rate or other key terms of the loan change.
- Establishes a standard for application of payments, unless otherwise directed by the borrower.
- Prohibits a servicer from recommending default in connection with the process of qualifying for an alternative repayment plan.
- Protects borrowers from rampant late fees being assessed by a servicer.
- Requires servicers to respond in a timely manner to borrower inquiries.
- Requires servicers to establish special points of contact for high-risk borrowers.
- Requires servicers to establish a Service member and Veteran Liaison to be responsible for answering inquiries from service members and veterans, and has special training on service member and veterans benefits under the Service member Civil Relief Act.
- Establishes a right for borrowers to request and have online access to information related to payment history, interest rate, loan terms, and pay off balance as well as original documents.
- Requires certain key information be disclosed to borrowers by servicers as part of monthly billing statements.
- Makes clear that protections do not preempt state laws where those state laws provide stronger consumer protections.
- Prohibits the use of mandatory pre-dispute arbitration clauses by servicers.

Sec. 602 Wage Garnishment

Eliminates wage garnishment for borrowers making under 185 percent of the federal poverty line and limits wage garnishment on private and federal student loans to 10 percent of discretionary income for those who make more than 185 percent of the federal poverty line.

Sec. 603 Improved Consumer Protections for Private Education Loans

- Ensures that private education loans are discharged when a borrower dies or becomes disabled.
- Requires private student lenders to clearly disclose terms of conditions for co-borrowers, including the requirements for releasing a co-borrower from a loan obligation

- Requires lenders to disclose information on the benefits that may be forfeited, such as income-driven repayment plans, opportunities for loan forgiveness, and others, as a result of refinancing a federal student loan into a private loan.
- Prohibits the acceleration of a student loan debt, also known as auto-defaults, for any other reason than if a borrower defaults due to missed payments.
- Prohibits private student lenders from denying credit to individuals who qualify for protections under the Servicemember Civil Relief Act.

Sec. 604 Know Before You Owe

Requires institutions of higher education to certify a private student loan before a lender can issue funds. Prior to certifying, a school must provide information to the borrower on their unused federal financial aid. Prohibits certification if the terms of the private loan do not provide alternative repayment options and discharge of the loan upon death or disability of the borrower.

Sec. 605 Bankruptcy Protections

- Restores private student loan dischargeability in bankruptcy.
- Clarifies current law’s “undue hardship” exception to nondischargeability in bankruptcy as it applies to federal student loans by creating a rebuttable presumption that a debtor faces an “undue hardship” if the debtor is receiving disability benefits under the Social Security Act; has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability; is a family caregiver of an eligible veteran; provides for the care and support of an elderly, disabled or chronically ill household member or member of the debtor’s immediate family and the annual household income for the debtor is less than 200 percent of the official poverty guideline (about \$24,000 for an individual and \$48,000 for a family of four); has income that is derived solely from retirement benefits under the Social Security Act and the annual household income for the debtor is less than 200 percent of the official poverty guideline; or during the five-year period preceding the filing of the bankruptcy petition, the debtor was not enrolled in school and had a gross income of less than 200 percent of the official poverty guideline during each of those five years.

Sec. 606 Education Loan Ombudsman

Clarifies that the responsibilities of the education loan ombudsman include monitoring and reporting on complaints on all education loans and requires that the ombudsman’s annual report include information on the number, nature, and resolution of the complaints received disaggregated by lender, servicer, region, state, and institution of higher education.

Sec. 607 Servicemember Civil Relief Act Improvements

- Requires private student lenders to continually monitor the Defense Manpower Data Center (DMDC) for changes in the duty status of service members who have student loans for purposes of SCRA benefits.
- Requires all student debt be forgiven in the event a service member dies in the line of duty, and federal student debt be forgiven if a service member dies of service-connected causes.

- Allows service members to consolidate or refinance student loan debt they had when they entered the military and continue to benefit from the 6 percent interest rate cap to which they are entitled under SCRA.