

#### 116TH CONGRESS 2D SESSION

# H. R. 8316

To direct the Secretary of Education to provide relief to borrowers of student loans for whom the Department of Education found misrepresentation by the institution of higher education or a State attorney general has asserted a right to borrower defense discharge.

#### IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2020

Mr. Takano introduced the following bill; which was referred to the Committee on Education and Labor

## A BILL

- To direct the Secretary of Education to provide relief to borrowers of student loans for whom the Department of Education found misrepresentation by the institution of higher education or a State attorney general has asserted a right to borrower defense discharge.
  - 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 "Coronavirus Emer-
  - 5 gency Borrower Defense Act of 2020" or the "Coronavirus
  - 6 E-BD Act of 2020".

### 1 SEC. 2. EMERGENCY BORROWER DEFENSE.

2	(a) Emergency Borrower Defense.—An eligible
3	borrower, or parent borrower who took out an eligible loan
4	on behalf of an eligible borrower, shall be entitled to relief
5	on such loan pursuant to this section.
6	(b) Eligible Borrower; Eligible Loan.—In this
7	section:
8	(1) Eligible Borrower.—
9	(A) IN GENERAL.—The term "eligible bor-
10	rower" means—
11	(i) a borrower covered by Department
12	of Education findings made on or before
13	the date of enactment of this section
14	against an institution of higher education
15	for job placement rate misrepresentation;
16	(ii) a borrower on whose behalf a
17	State attorney general has asserted a right
18	to borrower defense discharge if the asser-
19	tion was made by the State attorney gen-
20	eral to the Secretary of Education on or
21	before the date of enactment of this sec-
22	tion; or
23	(iii) a borrower who—
24	(I) was subject to a misrepresen-
25	tation made by the institution of high-
26	er education that the borrower at-

1	tended related to guaranteed employ-
2	ment or transferability of credits
3	where such misrepresentation was es-
4	tablished by the Department of Edu-
5	cation in findings made on or before
6	the date of enactment of this section;
7	and
8	(II) has asserted being subject to
9	such misrepresentation in a borrower
10	defense application to the Secretary of
11	Education.
12	(B) Eligibility.—A borrower—
13	(i) described in clause (i) or (ii) of
14	subparagraph (A), shall be an eligible bor-
15	rower whether or not the borrower has ap-
16	plied for borrower defense and whether or
17	not the borrower's claim has been adju-
18	dicated, if the borrower has not previously
19	received complete relief on the eligible loan
20	based on the borrower defense; and
21	(ii) described in subparagraph (A)(iii),
22	shall be an eligible borrower whether or
23	not the borrower's claim has been adju-
24	dicated, so long as they have not previously

received complete relief on their Federal

student loans based on their borrower de-
fense.
(2) ELIGIBLE LOAN.—The term "eligible loan"
means a loan made, insured, or guaranteed under
part B or D of title IV of the Higher Education Act
of 1965 (20 U.S.C. 1071 et seq.; $1087a$ et seq.).
(c) Relief.—With respect to—
(1) an eligible borrower described in clause (i)
or (ii) of subsection (b)(1)(A), or an eligible bor-
rower described in subsection (b)(1)(A)(iii) who ap-
plied for borrower defense prior to the date of enact-
ment of this section, the Secretary of Education
shall—
(A) not later than 30 days after the date
of enactment of this section, discharge the bor-
rower, or parent borrower who took out an eli-
gible loan on behalf of such borrower, of the full
obligation to repay the eligible loan (including
associated interest, costs, and fees that the bor-
rower or parent borrower would otherwise be
obligated to pay);
(B) not later than 45 days after the date
of enactment of this section, reimburse the bor-
rower, or parent borrower who took out an eli-

gible loan on behalf of such borrower, for

1	amounts paid toward the loan voluntarily or
2	through enforced collection;
3	(C) not later than 60 days after the date
4	of enactment of this section, report the dis-

- of enactment of this section, report the discharge under this section to all consumer reporting agencies to which the Secretary previously reported the status of the loan, so as to delete all adverse credit history assigned to the loan; and
- (D) not later than 60 days after the date of enactment of this section, no longer consider a borrower, or parent borrower who took out a loan on behalf of such borrower, who has defaulted on a loan discharged under this section to be in default on the discharged loan; and
- (2) an eligible borrower described in subsection (b)(1)(A)(iii) who did not apply for borrower defense prior to the date of enactment of this section, the Secretary of Education shall—
  - (A) not later than 30 days after the date such borrower applies for borrower defense, discharge the borrower, or parent borrower who took out an eligible loan on behalf of such borrower, of the full obligation to repay the eligible loan (including associated interest, costs, and

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1	fees that the borrower or parent borrower would
2	otherwise be obligated to pay);
3	(B) not later than 45 days after such bor-
4	rower applies for borrower defense, reimburse
5	the borrower, or parent borrower who took out
6	an eligible loan on behalf of such borrower, for
7	amounts paid toward the loan voluntarily or
8	through enforced collection;
9	(C) not later than 60 days after such bor-
10	rower applies for borrower defense, report the
11	discharge under this section to all consumer re-
12	porting agencies to which the Secretary pre-
13	viously reported the status of the loan, so as to
14	delete all adverse credit history assigned to the
15	loan; and
16	(D) not later than 60 days after such bor-
17	rower applies for borrower defense, no longer
18	consider a borrower, or parent borrower who
19	took out a loan on behalf of such borrower, who
20	has defaulted on a loan discharged under this
21	section to be in default on the discharged loan.
22	(d) Notification.—With respect to—
23	(1) an eligible borrower described in clause (i)
24	or (ii) of subsection (b)(1)(A), an eligible borrower
25	described in subsection (b)(1)(A)(iii) who applied for

1	borrower defense prior to the date of enactment of
2	this section, or a parent borrower who took out an
3	eligible loan on behalf of such an eligible borrower,
4	the Secretary of Education shall, not later than 20
5	days after the date of enactment of this section, no-
6	tify such borrower or parent borrower in writing
7	of—
8	(A) the relief to which the borrower is enti-
9	tled pursuant to subsection (c);
10	(B) the time in which such relief will be
11	provided pursuant to subsection (c);
12	(C) the borrower's eligibility to receive as-
13	sistance under title IV of the Higher Education
14	Act of 1965 (20 U.S.C. 1070 et seq.) after re-
15	ceiving relief pursuant to subsection (c); and
16	(D) any further relief to such borrower or
17	parent borrower as the Secretary of Education
18	determines is appropriate; and
19	(2) an eligible borrower described in subsection
20	(b)(1)(A)(iii) who did not apply for borrower defense

prior to the date of enactment of this section, or a

parent borrower who took out an eligible loan on be-

half of such an eligible borrower, the Secretary of

Education shall, not later than 20 days after such

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1	borrower applies for borrower defense, notify such
2	borrower or parent borrower in writing of—
3	(A) the relief to which the borrower is enti-
4	tled pursuant to subsection (c);
5	(B) the time in which such relief will be
6	provided pursuant to subsection (c);
7	(C) the borrower's eligibility to receive as-
8	sistance under title IV of the Higher Education
9	Act of 1965 (20 U.S.C. 1070 et seq.) after re-
10	ceiving relief pursuant to subsection (c); and
11	(D) any further relief to such borrower or
12	parent borrower as the Secretary of Education
13	determines is appropriate.
14	(e) Institutional Accountability.—For a dis-
15	charge granted under this section, the Secretary of Edu-
16	cation shall, as applicable, initiate an appropriate pro-
17	ceeding to require the institution of higher education
18	whose act or omission resulted in the discharge to repay
19	to the Secretary of Education the amount discharged
20	whether by offset, claim on a letter of credit, or other pro-
21	tection provided by the institution of higher education.