

117TH CONGRESS
1ST SESSION

S. 1098

To amend the Higher Education Act of 1965 to authorize borrowers to
separate joint consolidation loans.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 2021

Mr. WARNER (for himself, Mr. RUBIO, and Mr. CORNYN) introduced the fol-
lowing bill; which was read twice and referred to the Committee on
Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to authorize
borrowers to separate joint consolidation loans.

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 “Joint Consolidation
5 Loan Separation Act”.

6 **SEC. 2. SEPARATING JOINT CONSOLIDATION LOANS.**

7 (a) IN GENERAL.—Section 455(g) of the Higher
8 Education Act of 1965 (20 U.S.C. 1087e(g)) is amend-
9 ed—

1 (1) by striking “A borrower” and inserting the
2 following:

3 “(1) IN GENERAL.—A borrower”;

4 (2) in the first sentence, insert “(other than a
5 Federal Direct Consolidation Loan separated from a
6 joint consolidation loan under paragraph (2) of this
7 subsection)” after “under this part”; and

8 (3) by adding at the end the following:

9 “(2) SEPARATING JOINT CONSOLIDATION
10 LOANS.—

11 “(A) IN GENERAL.—A married couple, or
12 2 individuals who were previously a married
13 couple, and who received a joint consolidation
14 loan as such married couple under subpara-
15 graph (C) of section 428C(a)(3) (as such sub-
16 paragraph was in effect on June 30, 2006),
17 may apply to the Secretary, in accordance with
18 subparagraph (C) of this paragraph, for each
19 individual borrower in the married couple (or
20 previously married couple) to receive a separate
21 Federal Direct Consolidation Loan under this
22 part.

23 “(B) SECRETARIAL REQUIREMENTS.—Not-
24 withstanding section 428C(a)(3)(A) or any
25 other provision of law, for each individual bor-

1 rower who applies under subparagraph (A), the
2 Secretary shall—

3 “(i) award a separate Federal Direct
4 Consolidation Loan under this part that—

5 “(I) shall be for an amount equal
6 to the product of—

7 “(aa) the unpaid principal
8 and accrued unpaid interest of
9 the joint consolidation loan (as of
10 the date that is the day before
11 such separate consolidation loan
12 is made); and

13 “(bb) the percentage of the
14 joint consolidation loan attrib-
15 utable to the loans of the indi-
16 vidual borrower for whom such
17 separate consolidation loan is
18 being made, as determined on the
19 basis of the loan obligations of
20 such borrower with respect to
21 such joint consolidation loan (as
22 of the date such joint consolida-
23 tion loan was made); and

24 “(II) has the same rate of inter-
25 est as the joint consolidation loan (as

1 of the date that is the day before such
2 separate consolidation loan is made);
3 and

4 “(ii) in order to discharge such indi-
5 vidual borrower from any remaining obli-
6 gation with respect to the percentage of
7 the joint consolidation loan described in
8 clause (i)(I)(bb)—

9 “(I) cancel the outstanding bal-
10 ance of interest and principal due on
11 such percentage, in the case of such a
12 loan held by the Secretary; and

13 “(II) through the holder of the
14 loan, assume the obligation to repay
15 the outstanding balance of interest
16 and principal due on such percentage,
17 in the case of such a loan made, in-
18 sured, or guaranteed under part B;

19 “(iii) ensure that such individual bor-
20 rower shall not be held liable for the repay-
21 ment of the percentage of the joint consoli-
22 dation loan that is not described in clause
23 (i)(I)(bb);

24 “(iv) in a case in which a payment
25 was made under section 455(m)(1)(A) on

1 the joint consolidation loan during a period
 2 in which the individual borrower for whom
 3 such separate consolidation loan is being
 4 made was employed in a public service job
 5 described in section 455(m)(1)(B), treat
 6 such payment as if such payment were
 7 made on the separate consolidation loan;
 8 and

9 “(v) in a case in which a payment was
 10 made under an income contingent repay-
 11 ment plan or an income-based repayment
 12 plan described in subparagraph (D) or (E)
 13 of section 455(d)(1), respectively, on the
 14 joint consolidation loan, treat such pay-
 15 ment as if such payment were made on
 16 such separate consolidation loan.

17 “(C) APPLICATION FOR SEPARATE DIRECT
 18 CONSOLIDATION LOAN.—

19 “(i) JOINT APPLICATION.—Except as
 20 provided in clause (ii), to receive separate
 21 consolidation loans under this part, both
 22 individual borrowers in a married couple
 23 (or previously married couple) shall jointly
 24 apply under subparagraph (A).

1 “(ii) SEPARATE APPLICATION.—An
2 individual borrower in a married couple (or
3 previously married couple) may apply for a
4 separate consolidation loan under subpara-
5 graph (A) separately and without regard to
6 whether or when the other individual bor-
7 rower in the married couple (or previously
8 married couple) applies under subpara-
9 graph (A), in a case in which—

10 “(I) the individual borrower has
11 experienced from the other individual
12 borrower—

13 “(aa) domestic violence (as
14 defined in section 40002(a) of
15 the Violence Against Women Act
16 of 1994 (42 U.S.C. 13925 (a)));
17 or

18 “(bb) economic abuse (in-
19 cluding behaviors that control
20 such borrower’s ability to ac-
21 quire, use, and maintain access
22 to money, credit, or the joint fi-
23 nancial obligations of both bor-
24 rowers);

1 “(II) the individual borrower cer-
 2 tifies, on a form approved by the Sec-
 3 retary, that such borrower is unable
 4 to reasonably reach or access the loan
 5 information of the other individual
 6 borrower; or

7 “(III) the Secretary determines
 8 that authorizing each individual bor-
 9 rower to apply separately under sub-
 10 paragraph (A) would be in the best
 11 fiscal interests of the Federal Govern-
 12 ment.”.

13 (b) CONFORMING AMENDMENT.—Section
 14 428C(a)(3)(B)(i)(V) of the Higher Education Act of 1965
 15 (20 U.S.C. 1078–3(3)(B)(i)(V)) is amended—

16 (1) by striking “or” at the end of item (bb);
 17 (2) by striking the period at the end of item
 18 (cc) and inserting “; or”; and
 19 (3) by adding at the end the following:

20 “(dd) for the purpose of sep-
 21 arating a joint consolidation loan
 22 into 2 separate Federal Direct
 23 Consolidation Loans under sec-
 24 tion 455(g)(2), except that such
 25 separated Federal Direct Consoli-

1 dation Loan may not consolidate
2 such loan with the loans de-
3 scribed in section 428C(a)(4).”.

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