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(Original Signature of Member)

113TH CONGRESS  
1ST SESSION

# H. R.

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To amend the Truth in Lending Act and the Higher Education Act of 1965 to require certain creditors to obtain certifications from institutions of higher education, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. POLIS (for himself and Ms. SCHWARTZ) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require certain creditors to obtain certifications from institutions of higher education, 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 “Know Before You Owe  
5 Private Student Loan Act of 2013”.

1 **SEC. 2. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

2 (a) IN GENERAL.—Section 128(e) of the Truth in  
3 Lending Act (15 U.S.C. 1638(e)) is amended—

4 (1) by striking paragraph (3) and inserting the  
5 following:

6 “(3) INSTITUTIONAL CERTIFICATION RE-  
7 QUIRED.—

8 “(A) IN GENERAL.—Except as provided in  
9 subparagraph (B), before a creditor may issue  
10 any funds with respect to an extension of credit  
11 described in this subsection, the creditor shall  
12 obtain from the relevant institution of higher  
13 education where such loan is to be used for a  
14 student, such institution’s certification of—

15 “(i) the enrollment status of the stu-  
16 dent;

17 “(ii) the student’s cost of attendance  
18 at the institution as determined by the in-  
19 stitution under part F of title IV of the  
20 Higher Education Act of 1965; and

21 “(iii) the difference between—

22 “(I) such cost of attendance; and

23 “(II) the student’s estimated fi-  
24 nancial assistance, including such as-  
25 sistance received under title IV of the  
26 Higher Education Act of 1965 and

1                   other financial assistance known to  
2                   the institution, as applicable.

3                   “(B) EXCEPTION.—Notwithstanding sub-  
4                   paragraph (A), a creditor may issue funds with  
5                   respect to an extension of credit described in  
6                   this subsection without obtaining from the rel-  
7                   evant institution of higher education such insti-  
8                   tution’s certification if such institution fails to  
9                   provide within 15 business days of the credi-  
10                  tor’s request for such certification—

11                   “(i) the requested certification; or

12                   “(ii) notification that the institution  
13                  has received the request for certification  
14                  and will need additional time to comply  
15                  with the certification request.

16                  “(C) LOANS DISBURSED WITHOUT CER-  
17                  TIFICATION.—If a creditor issues funds without  
18                  obtaining a certification, as described in sub-  
19                  paragraph (B), such creditor shall report the  
20                  issuance of such funds in a manner determined  
21                  by the Director of the Bureau.”;

22                  (2) by redesignating paragraphs (9), (10), and  
23                  (11) as paragraphs (10), (11), and (12), respec-  
24                  tively; and

1           (3) by inserting after paragraph (8) the fol-  
2       lowing:

3           “(9) PROVISION OF INFORMATION.—

4                   “(A) PROVISION OF INFORMATION TO STU-  
5       DENTS.—

6                           “(i) LOAN STATEMENT.—A creditor  
7       that issues any funds with respect to an  
8       extension of credit described in this sub-  
9       section shall send loan statements, where  
10      such loan is to be used for a student, to  
11      borrowers of such funds not less than once  
12      every 3 months during the time that such  
13      student is enrolled at an institution of  
14      higher education.

15                           “(ii) CONTENTS OF LOAN STATE-  
16      MENT.—Each statement described in  
17      clause (i) shall—

18                                   “(I) report the borrower’s total  
19      remaining debt to the creditor, includ-  
20      ing accrued but unpaid interest and  
21      capitalized interest;

22                                   “(II) report any debt increases  
23      since the last statement; and

24                                   “(III) list the current interest  
25      rate for each loan.

1           “(B) NOTIFICATION OF LOANS DISBURSED  
2           WITHOUT CERTIFICATION.—On or before the  
3           date a creditor issues any funds with respect to  
4           an extension of credit described in this sub-  
5           section, the creditor shall notify the relevant in-  
6           stitution of higher education, in writing, of the  
7           amount of the extension of credit and the stu-  
8           dent on whose behalf credit is extended. The  
9           form of such written notification shall be sub-  
10          ject to the regulations of the Bureau.

11          “(C) ANNUAL REPORT.—A creditor that  
12          issues funds with respect to an extension of  
13          credit described in this subsection shall prepare  
14          and submit an annual report to the Bureau  
15          containing the required information about pri-  
16          vate student loans to be determined by the Bu-  
17          reau, in consultation with the Secretary of Edu-  
18          cation.”.

19          (b) DEFINITION OF PRIVATE EDUCATION LOAN.—  
20          Section 140(a)(7)(A) of the Truth in Lending Act (15  
21          U.S.C. 1650(a)(7)(A)) is amended—

22                 (1) by redesignating clause (ii) as clause (iii);

23                 (2) in clause (i), by striking “and” after the  
24          semicolon; and

25                 (3) by adding after clause (i) the following:

1                   “(ii) is not made, insured, or guaran-  
2                   teed under title VII or title VIII of the  
3                   Public Health Service Act (42 U.S.C. 292  
4                   et seq. and 296 et seq.); and”.

5           (c) REGULATIONS.—Not later than 365 days after  
6 the date of enactment of this Act, the Bureau of Consumer  
7 Financial Protection shall issue regulations in final form  
8 to implement paragraphs (3) and (9) of section 128(e) of  
9 the Truth in Lending Act (15 U.S.C. 1638(e)), as amend-  
10 ed by subsection (a). Such regulations shall become effec-  
11 tive not later than 6 months after their date of issuance.

12 **SEC. 3. AMENDMENT TO THE HIGHER EDUCATION ACT OF**  
13 **1965.**

14           (a) AMENDMENT TO THE HIGHER EDUCATION ACT  
15 OF 1965.—Section 487(a) of the Higher Education Act  
16 of 1965 (20 U.S.C. 1094(a)) is amended by striking para-  
17 graph (28) and inserting the following:

18                   “(28)(A) The institution shall—

19                           “(i) upon the request of a private edu-  
20                           cational lender, acting in connection with  
21                           an application initiated by a borrower for  
22                           a private education loan in accordance with  
23                           section 128(e)(3) of the Truth in Lending  
24                           Act, provide certification to such private  
25                           educational lender—

1                   “(I) that the student who initi-  
2                   ated the application for the private  
3                   education loan, or on whose behalf the  
4                   application was initiated, is enrolled  
5                   or is scheduled to enroll at the institu-  
6                   tion;

7                   “(II) of such student’s cost of at-  
8                   tendance at the institution as deter-  
9                   mined under part F of this title; and

10                   “(III) of the difference be-  
11                   tween—

12                   “(aa) the cost of attendance  
13                   at the institution; and

14                   “(bb) the student’s esti-  
15                   mated financial assistance re-  
16                   ceived under this title and other  
17                   assistance known to the institu-  
18                   tion, as applicable; and

19                   “(ii) provide the certification de-  
20                   scribed in clause (i), or notify the creditor  
21                   that the institution has received the re-  
22                   quest for certification and will need addi-  
23                   tional time to comply with the certification  
24                   request—

1                   “(I) within 15 business days of  
2                   receipt of such certification request;  
3                   and

4                   “(II) only after the institution  
5                   has completed the activities described  
6                   in subparagraph (B).

7                   “(B) The institution shall, upon receipt of  
8                   a certification request described in subpara-  
9                   graph (A)(i), and prior to providing such cer-  
10                  tification—

11                  “(i) determine whether the student  
12                  who initiated the application for the pri-  
13                  vate education loan, or on whose behalf the  
14                  application was initiated, has applied for  
15                  and exhausted the Federal financial assist-  
16                  ance available to such student under this  
17                  title and inform the student accordingly;  
18                  and

19                  “(ii) provide the borrower whose loan  
20                  application has prompted the certification  
21                  request by a private education lender, as  
22                  described in subparagraph (A)(i), with the  
23                  following information and disclosures:

24                  “(I) The availability of, and the  
25                  borrower’s potential eligibility for,

1 Federal financial assistance under this  
2 title, including disclosing the terms,  
3 conditions, interest rates, and repay-  
4 ment options and programs of Federal  
5 student loans.

6 “(II) The borrower’s ability to  
7 select a private educational lender of  
8 the borrower’s choice.

9 “(III) The impact of a proposed  
10 private education loan on the bor-  
11 rower’s potential eligibility for other  
12 financial assistance, including Federal  
13 financial assistance under this title.

14 “(IV) The borrower’s right to ac-  
15 cept or reject a private education loan  
16 within the 30-day period following a  
17 private educational lender’s approval  
18 of a borrower’s application and about  
19 a borrower’s 3-day right to cancel pe-  
20 riod.

21 “(C) For purposes of this paragraph, the  
22 terms ‘private educational lender’ and ‘private  
23 education loan’ have the meanings given such  
24 terms in section 140 of the Truth in Lending  
25 Act (15 U.S.C. 1650).”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the effective date of the  
3 regulations described in section 2(c).

4 **SEC. 4. REPORT.**

5 Not later than 24 months after the issuance of regu-  
6 lations under section 2(c), the Director of the Bureau of  
7 Consumer Financial Protection and the Secretary of Edu-  
8 cation shall jointly submit to Congress a report on the  
9 compliance of institutions of higher education and private  
10 educational lenders with section 128(e)(3) of the Truth  
11 in Lending Act (15 U.S.C. 1638(e)), as amended by sec-  
12 tion 2, and section 487(a)(28) of the Higher Education  
13 Act of 1965 (20 U.S.C. 1094(a)), as amended by section  
14 3. Such report shall include information about the degree  
15 to which specific institutions utilize certifications in effec-  
16 tively encouraging the exhaustion of Federal student loan  
17 eligibility and lowering student private education loan  
18 debt.