

112TH CONGRESS  
1ST SESSION

# S. 1748

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require additional disclosures and protections for students and cosigners with respect to student loans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2011

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Truth in Lending Act and the Higher Education Act of 1965 to require additional disclosures and protections for students and cosigners with respect to student loans, 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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Christopher Bryski Student Loan Protection Act” or  
6 “Christopher’s Law”.

7 (b) **FINDINGS.**—Congress finds the following:

1           (1) No requirement exists for private edu-  
2           cational lenders' promissory notes to include a clear  
3           and conspicuous description of the responsibilities of  
4           a borrower and cosigner in the event the borrower  
5           or cosigner becomes disabled, incapacitated, or dies.

6           (2) An estimated 1,700,000 people sustain a  
7           traumatic brain injury each year, with older adoles-  
8           cents aged 15 to 19 years old more likely to sustain  
9           a traumatic brain injury than other age groups.

10          (3) It has been estimated that the annual inci-  
11          dence of spinal cord injury, not including those who  
12          die at the scene of an accident, is approximately 40  
13          cases per 1,000,000 people in the United States or  
14          approximately 12,000 new cases each year. These in-  
15          juries can lead to permanent disability or loss of  
16          movement and can prohibit the victim from engaging  
17          in any substantial gainful activity.

18          (4) In the 2007–2008 academic year, 13 per-  
19          cent of students attending a 4-year public institution  
20          of higher education, and 26.2 percent of students at-  
21          tending a 4-year private institution of higher edu-  
22          cation, borrowed monies from private educational  
23          lenders.

24          (5) According to Sallie Mae, in 2009, the per-  
25          centage of cosigned private education loans in-

1        creased from 66 percent to 84 percent of all private  
2        education loans.

3        **SEC. 2. ADDITIONAL STUDENT LOAN PROTECTIONS.**

4        (a) IN GENERAL.—Section 140 of the Truth in Lend-  
5        ing Act (15 U.S.C. 1650) is amended by adding at the  
6        end the following:

7        “(g) ADDITIONAL PROTECTIONS RELATING TO  
8        DEATH OR DISABILITY OF BORROWER OR COSIGNER OF  
9        A PRIVATE EDUCATION LOAN.—

10        “(1) CLEAR AND CONSPICUOUS DESCRIPTION  
11        OF COSIGNER’S OBLIGATION.—In the case of any  
12        private educational lender who extends a private  
13        education loan for which any cosigner is jointly lia-  
14        ble, the lender shall clearly and conspicuously de-  
15        scribe, in writing, the cosigner’s obligations with re-  
16        spect to the loan, including the effect the death, dis-  
17        ability, or inability to engage in any substantial  
18        gainful activity of the borrower or any cosigner  
19        would have on any such obligation, in language that  
20        the Bureau determines would give a reasonable per-  
21        son a reasonable understanding of the obligation  
22        being assumed by becoming a cosigner for the loan.

23        “(2) MODEL FORM.—The Bureau shall publish  
24        a model form under section 105 for describing a co-  
25        signer’s obligation for purposes of paragraph (1).

1           “(3) DEFINITION OF DEATH, DISABILITY, OR  
 2           INABILITY TO ENGAGE IN ANY SUBSTANTIAL GAIN-  
 3           FUL ACTIVITY.—For the purposes of this subsection  
 4           with respect to a borrower or cosigner, the term  
 5           ‘death, disability, or inability to engage in any sub-  
 6           stantial gainful activity’—

7                   “(A) means any condition described in sec-  
 8                   tion 437(a) of the Higher Education Act of  
 9                   1965 (20 U.S.C. 1087(a)); and

10                   “(B) shall be interpreted by the Bureau in  
 11                   such a manner as to conform with the regula-  
 12                   tions prescribed by the Secretary of Education  
 13                   under section 437(a) of such Act (20 U.S.C.  
 14                   1087(a)) to the fullest extent practicable, in-  
 15                   cluding safeguards to prevent fraud and  
 16                   abuse.”.

17           (b) DEFINITIONS.—Section 140(a) of the Truth in  
 18           Lending Act (15 U.S.C. 1650(a)) is amended—

19                   (1) by redesignating paragraphs (1) through  
 20                   (8) as paragraphs (2) through (9), respectively; and

21                   (2) by inserting before paragraph (2) (as redес-  
 22                   ignated by paragraph (1)) the following:

23                   “(1) the term ‘cosigner’—

24                           “(A) means any individual who is liable for  
 25                           the obligation of another without compensation,

1           regardless of how designated in the contract or  
2           instrument;

3           “(B) includes any person whose signature  
4           is requested as condition to grant credit or to  
5           forbear on collection; and

6           “(C) does not include a spouse of an indi-  
7           vidual referred to in subparagraph (A) whose  
8           signature is needed to perfect the security inter-  
9           est in the loan;”.

10 **SEC. 3. FEDERAL STUDENT LOANS.**

11           Section 485(l)(2) of the Higher Education Act of  
12 1965 (20 U.S.C. 1092(l)(2)) is amended by adding at the  
13 end the following:

14           “(L) Information on the conditions re-  
15           quired to discharge the loan due to the death,  
16           disability, or inability to engage in any substan-  
17           tial gainful activity of the borrower in accord-  
18           ance with section 437(a), and an explanation  
19           that, in the case of a private education loan  
20           made through a private educational lender (as  
21           such terms are defined in section 140 of the  
22           Truth in Lending Act (15 U.S.C. 1650)), the  
23           borrower, the borrower’s estate, and any co-  
24           signer of such a private education loan may be  
25           obligated to repay the full amount of the loan,

1           regardless of the death or disability of the bor-  
2           rower or any other condition described in sec-  
3           tion 437(a).”.

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