

**AMENDMENT TO H.R. 4173**  
**OFFERED BY MR. POLIS OF COLORADO, MR. PAT-**  
**RICK MURPHY OF PENNSYLVANIA, AND MR.**  
**BISHOP OF NEW YORK**

Page 1018, after line 25, insert the following:

1 **SEC. 4818. AMENDMENTS TO TRUTH IN LENDING ACT.**

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

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

6 “(3) INSTITUTIONAL CERTIFICATION RE-  
7 QUIRED.—(A) Except as provided in subparagraph  
8 (B), before a creditor may issue any funds with re-  
9 spect to an extension of credit described in para-  
10 graph (1), the creditor shall obtain from the relevant  
11 institution of higher education such institution’s cer-  
12 tification—

13 “(i) of the enrollment status of the bor-  
14 rower;

15 “(ii) of the borrower’s cost of attendance  
16 at the institution as determined by the institu-  
17 tion under part F of title IV of the Higher  
18 Education Act of 1965;

1           “(iii) of the difference between the bor-  
2           rower’s cost of attendance and the borrower’s  
3           estimated financial assistance received under  
4           title IV of the Higher Education Act of 1965  
5           and other assistance known to the institution,  
6           as applicable; and

7           “(iv) that the institution has—

8                 “(I) informed the borrower—

9                         “(aa) about the availability of,  
10                         and the borrower’s potential eligibility  
11                         for, Federal financial assistance under  
12                         this title, including disclosing the  
13                         terms, conditions, and interest rates  
14                         of Federal student loans;

15                         “(bb) of the borrower’s ability to  
16                         select a private educational lender of  
17                         the borrower’s choice;

18                         “(cc) about the impact of a pro-  
19                         posed private education loan on the  
20                         borrowers’ potential eligibility for  
21                         other financial assistance, including  
22                         Federal financial assistance under the  
23                         Higher Education Act of 1965; and

24                         “(dd) about a borrower’s right to  
25                         accept or reject a private education

1 loan within the 30-day period fol-  
2 lowing a private educational lender's  
3 approval of a borrower's application  
4 and about a borrower's 3-day right to  
5 cancel altogether;

6 "(II) determined whether the bor-  
7 rower has applied for and exhausted the  
8 Federal financial assistance available to  
9 the borrower under the Higher Education  
10 Act of 1965 and informed the borrower ac-  
11 cordingly; and

12 "(III) counseled the borrower on the  
13 borrower's financial aid options.

14 "(B) A creditor may issue funds with respect to  
15 an extension of credit described in paragraph (1)  
16 without obtaining from the relevant institution of  
17 higher education such institution's certification if  
18 such institution fails to provide such certification  
19 within 21 calendar days or 15 business days, which-  
20 ever comes first, of the creditor's request for such  
21 certification.";

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 new paragraph (9):

3           “(9) PROVISION OF INFORMATION.—On or be-  
4           fore the date a creditor issues any funds with re-  
5           spect to an extension of credit described in para-  
6           graph (1), the creditor shall notify the relevant insti-  
7           tution of higher education, in writing, of the amount  
8           of the extension of credit and the student on whose  
9           behalf credit is extended. The form of such written  
10          notification shall be subject to the regulations of the  
11          Agency.”.

12          (b) REGULATIONS.—

13           (1) DEADLINE FOR REGULATIONS.—Not later  
14          than 365 days after the date of enactment of this  
15          Act, the Agency shall issue regulations in final form  
16          to implement paragraphs (3) and (9) of section  
17          128(e) of the Truth in Lending Act, as amended by  
18          subsection (a). Such regulations shall become effec-  
19          tive not later than 6 months after their date of  
20          issuance.

21           (2) EFFECTIVE DATE.—The regulations in ef-  
22          fect pursuant to section 128(e) of the Truth in  
23          Lending Act as of the date of the enactment of this  
24          Act shall remain in effect until the effective date of  
25          the regulations issued under paragraph (1).

1 (c) STUDY AND REPORT ON PRIVATE EDUCATION  
2 LOANS AND PRIVATE EDUCATIONAL LENDERS.—

3 (1) REPORT.—Not later than 2 years after the  
4 date of enactment of this Act, the Director and the  
5 Secretary of Education, in consultation with the  
6 Commissioners of the Federal Trade Commission,  
7 and the Attorney General, shall submit a report to  
8 the Committee on Financial Services and the Com-  
9 mittee on Education and Labor of the House of  
10 Representatives and the Committee on Banking,  
11 Housing, and Urban Affairs and the Committee on  
12 Health Education, Labor, and Pensions of the Sen-  
13 ate on private education loans (as that term is de-  
14 fined in section 140 of the Truth in Lending Act (15  
15 U.S.C. 1650)) and private educational lenders (as  
16 that term is defined in such section).

17 (2) CONTENT.—The report required by this  
18 subsection shall examine, at a minimum, the fol-  
19 lowing:

20 (A) the growth and changes of the private  
21 education loan market in the United States;

22 (B) factors influencing such growth and  
23 changes;

24 (C) the extent to which students and par-  
25 ents of students rely on private education loans

1 to finance postsecondary education and the pri-  
2 vate education loan indebtedness of borrowers,  
3 (D) the characteristics of private education  
4 loan borrowers, including the types of institu-  
5 tions of higher education they attend, socio-  
6 economic characteristics (including income and  
7 education levels, racial characteristics, geo-  
8 graphical background, age, and gender), what  
9 other forms of financing borrowers use to pay  
10 for education, whether they exhaust their fed-  
11 eral loan options before taking out a private  
12 loan, whether such borrowers are dependent or  
13 independent students (as determined under part  
14 F of title IV of the Higher Education Act of  
15 1965) or parents of such students, whether  
16 such borrowers are students enrolled in a pro-  
17 gram leading to a certificate, license or creden-  
18 tial other than a degree, an associates degree,  
19 a baccalaureate degree, or a graduate or profes-  
20 sional degree and, if practicable, employment  
21 and repayment behaviors;

22 (E) the characteristics of private edu-  
23 cational lenders, including whether such credi-  
24 tors are for-profit, non-profit, or institutions of  
25 higher education;

1 (F) the underwriting criteria used by pri-  
2 vate educational lenders, including the use of  
3 cohort default rate (as such term is defined in  
4 section 435(m) of the Higher Education Act of  
5 1965);

6 (G) the terms, conditions, and pricing of  
7 private education loans;

8 (H) the consumer protections available to  
9 private education loan borrowers, including the  
10 effectiveness of existing disclosures and require-  
11 ments and borrowers' awareness and under-  
12 standing about terms and conditions of various  
13 financial products;

14 (I) whether federal regulators and the pub-  
15 lic have access to information sufficient to pro-  
16 vide them with assurances that private edu-  
17 cation loans are provided in accord with the  
18 Nation's fair lending laws and that allows pub-  
19 lic officials to determine lenders' compliance  
20 with fair lending laws; and

21 (J) any statutory or legislative rec-  
22 ommendations necessary to improve consumer  
23 protections for private education loan borrowers  
24 and to better enable federal regulators and the

1 public to ascertain private educational lender  
2 compliance with fair lending laws.

3 (d) REPORT.— Not later than 18 months after the  
4 issuance of regulations under subsection (b)(1), the Con-  
5 sumer Financial Protection Agency and the Secretary of  
6 Education shall jointly submit to Congress a report on the  
7 compliance of institutions and private educational lenders  
8 with the amendments made by this section. The report  
9 shall include the degree to which specific institutions uti-  
10 lize certifications in effectively encouraging the exhaustion  
11 of Federal student loan eligibility and lowering student  
12 debt.

