

The Latest Word from ISAC on...

Ensuring Continued Access to Student Loans Act of 2008 (H.R. 5715) – Signed by the President

Representative George Miller (D-CA) introduced H.R. 5715 on April 8th in an effort to develop a contingency plan to ensure that students and parents are able to access the loans needed to pay for college. This bill was passed by the full House (with amendments) on April 17th by a vote of 383-27, and was then placed on the Senate's calendar for consideration. The Senate passed this bill on April 30th by a unanimous consent vote. The Senate made several amendments to the House version of H.R. 5715 and the bill was then sent back to the full House for another vote, where it passed (388-21) on May 1st. On Wednesday, May 7th, President Bush signed H.R. 5715 into law. The provisions in this bill would become effective on July 1, 2008 (unless otherwise noted).

Details of the bill in its current version are as follows:

1. Loan Limits for Undergraduate, Dependent Students

For loans first disbursed on or after July 1, 2008, undergraduate dependent students would be able to borrow an additional \$2,000 per year under the unsubsidized Stafford Loan Program. This would raise the annual loan limits for these students as follows:

- for 1st year students, from \$3,500 to \$5,500
- for 2nd year students, from \$4,500 to \$6,500
- for third and fourth year students, from \$5,500 to \$7,500

Example: Under this scenario, if a 1st year student qualified for a \$3,000 subsidized loan, that student could obtain a \$2,500 unsubsidized loan for that academic year. If that student did not qualify for a subsidized loan, he or she could obtain a \$5,500 unsubsidized loan for that academic year.

This legislation would also increase the aggregate loan amount for these students from \$23,000 to \$31,000.

2. Loan Limits for Undergraduate, Independent Students

For loans first disbursed on or after July 1, 2008, undergraduate independent students, or undergraduate dependent students whose parents do not qualify for a Parent PLUS loan, would be able to borrow an additional \$2,000 per year under the unsubsidized Stafford Loan Program. This would raise the annual loan limits for these students as follows:

- for 1st and 2nd year students, from \$4,000 to \$6,000
- for 3rd and 4th year students, from \$5,000 to \$7,000

Example: Under this scenario, if a 1st year student qualified for a \$3,000 subsidized loan, that student could obtain a \$3,000 unsubsidized loan for that academic year. If that student did not qualify for a subsidized loan, he or she could obtain a \$6,000 unsubsidized loan for that academic year.

This legislation would also increase the aggregate loan amount for these students from \$46,000 to \$57,500.

3. Loan Limits for Graduate and Professional Students

The final version of H.R. 5715 makes no changes to the loan limits for graduate and professional students.

4. Department Serving as Secondary Market for FFELP Loans

This bill would provide the Secretary temporary authority to buy FFELP loans originated on or after October 1, 2003 (excluding Consolidation loans) if a determination is made that lenders are unable to meet the demands for loans, and the loans carry no cost for the federal government. As a condition of purchase, lenders would be required to use those proceeds to ensure its continued participation in the FFELP.

The bill also provides the ability for lenders to enter into forward purchase agreements with the Department. As part of the agreements, those lenders could continue servicing loans purchased by the Secretary as long as the cost would not be more than what it would cost to service those loans as Direct Loans and is in the best interest of the borrowers.

The bill would require the Secretaries of Education and Treasury, along with the Director of the Office of Management and Budget (OMB) to issue a Federal Register notice providing the terms and conditions for loans purchased by the Department including the methodologies used to determine pricing.

The authority for these provisions would sunset on July 1, 2009.

5. Lender-of-Last-Resort (LLR) Program

H.R. 5715 would require the Secretary to designate guaranty agencies as lenders-of-last-resort on a school-wide basis rather than on a student-by-student basis. A school's eligibility to participate in LLR would be based on standards developed by the Secretary, including:

- A school may be required to demonstrate that, despite due diligence efforts, it has been unable to secure a lender(s) willing to make loans to a significant number of students;
- Prior to requesting participation in LLR, a school may be required to demonstrate it has met a minimum threshold (determined by the Secretary) for the number or percentage of students at that school who have been rejected by eligible lenders; and
- Any other standards and guidelines the Secretary determines appropriate.

Guaranty agencies (or eligible lender) would be required to make loans to students attending that school and their parents regardless of whether or not the student or parent borrower was otherwise unable to obtain a loan from another lender. This provision excludes Consolidation loans. Guaranty agencies (and eligible lenders) would be prohibited from using prohibited inducements (as defined in statute) to expand their loan volume while participating in LLR, and would prohibit guaranty agencies from advertising, marketing, or promoting LLR loans.

Guaranty agencies (or eligible lenders) would not be allowed to offer borrower benefits on LLR loans. This includes interest rate reductions and lower (or zero) origination or default fees.

The bill also clarifies the Secretary's mandatory authority to provide guarantors with advances to make these loans in the event they do not have the capital to originate new loans. The bill also inserts a provision into statute that would authorize appropriations out of money not otherwise appropriated to carry out these advances.

The bill would require the Secretary of Education to:

- Disseminate information on the availability of LLR loans.
- Provide the Congressional Education Committees and the public (during the period July 1, 2008 through June 30, 2010):
 - Copies of any new or revised LLR agreements made with guaranty agencies.
 - Quarterly reports on the number and amounts of loans originated under the LLR and related payments by the Department, guaranty agencies, and eligible lenders.
 - A budget estimate of the costs of loans (by loan type) made under LLR compared to loans made under the Direct Loan program during the same period.
- Provide annual reports to Congress and the public beginning on July 1, 2010.

These provisions would become effective on the date of enactment of this bill and would expire on June 30, 2009. At that time, LLR would revert back to a student-by-student basis.

6. Parent PLUS Loans

Under current law and regulations, a parent PLUS loan goes into repayment 60 days after the loan is disbursed. This bill would provide parents the ability to defer payments on PLUS loans until 6 months after the student for which they were borrowed ceases to be enrolled on at least a half-time basis.

Current law and regulations also state that parents with adverse credit cannot obtain a PLUS loan, except under extenuating circumstances. This bill would temporarily classify delinquencies on mortgage loans and medical bill payments of up to 180 days as an extenuating circumstance in order for parents affected by the current housing market to obtain a PLUS loan on behalf of a dependent student. Parents could not be more than 89 days delinquent on any other debt. This provision would be effective on PLUS loans made on or after July 1, 2008 and before July 1, 2009.

7. ACG and National SMART Grants

All savings generated from this bill would be directed into the Academic Competitiveness Grant (ACG) and National SMART Grant programs. This bill also adds a fifth year to SMART Grant eligibility for programs that require five years to complete. This bill also allows students attending on at least a half-time basis to qualify for ACG and SMART Grants (the proration methodology for Pell Grants would be used), and would allow eligible non-citizens to qualify for these grants. Other provisions that relate to ACG and SMART include:

- Revising the term “academic year” to “year” to allow for progression through grant levels.
- Allowing students enrolled in a school that offers a single baccalaureate level liberal arts curriculum in which students are not required to declare a major to be eligible for SMART grants. Students must be enrolled in coursework in an area that is equivalent to a SMART-eligible major.
- Extending first-year ACG eligibility to students enrolled in at least a one-year certificate program, as well as extending second-year eligibility to students enrolled in at least a two-year certificate program. Certificates must be offered by degree-granting schools.

The provisions related to ACG and SMART grants would become effective on January 1, 2009.

8. Report on Impact of Increased Loan Limits

H.R. 5715 would require the Comptroller General to evaluate the impact increasing loan limits would have on tuition and fees and room and board expenses at all schools, as well as the impact to private loan borrowing by students and parents. This report would be done by school type (e.g., 2-year, 4-year public, 4-year private, etc.) over a five year time period. The Comptroller General would be required to issue an interim report to the Congressional Education Committees no later than one year after the date of enactment of this bill. Follow-up reports would be required after the third and fifth years.

9. Suspension of Master Calendar and Negotiated Rulemaking

The bill suspends the Master Calendar and Negotiated Rulemaking process for all provisions contained in this bill except for the provisions related to ACG and SMART grants. This would allow the Department to implement these changes and publish final regulations without input from the student financial aid community.

10. Sense of Congress

The bill also contains a “Sense of Congress” that states, if needed, Federal financial institutions (the Federal Financing Bank and Federal Reserve) as well as Federal Home Loan Banks should consider using available authorities to assist student loan lenders in providing loan to students and families for the 2008-2009 academic year and subsequent academic year so long as there is no increased cost to taxpayers. The Sense of Congress also states that any action taken as a result of these considerations would in no way limit or delay the Secretary’s authority to regarding the lender-of-last-resort program or purchasing of FFELP loans.