

Restore Fairness for People with Private Student Loans in Bankruptcy

Cosponsor H.R. 5043, the “Private Student Loan Bankruptcy Fairness Act”

Dear Colleague:

H.R. 5043, the “Private Student Loan Bankruptcy Fairness Act,” would restore fair treatment to Americans in severe financial distress whose debts include private student loans. Before 2005, private student loans issued by for-profit lenders were appropriately treated like credit card debt and other similar types of unsecured consumer debt in bankruptcy. Our bill would ensure that privately issued student loans will once again be treated like other consumer debt and be dischargeable in bankruptcy.

As many recent news reports have shown, including the attached [*USA Today*](#) article, private student loans have much in common with credit cards and subprime mortgages. For example, private student loans typically have variable interest rates with no caps, and can carry exorbitant fees and hidden charges. In addition, for-profit educational lenders have used aggressive marketing and high-pressure sales tactics to target particularly vulnerable citizens, namely, young men and women without financial experience, and older Americans seeking to re-start their careers in these recessionary times by pursuing higher education.

To make matters worse, private student loans lack the critical consumer protections that come with federal student loans. For instance, private lenders are not required to and typically do not provide any of the deferments, income-based repayment plans, limited cancellation rights, or partial loan forgiveness programs that are available to federal student loan borrowers.

A hallmark of our Nation’s bankruptcy law is to give an honest but unfortunate debtor a chance to obtain meaningful relief. To that end, the law provides that only certain debts should not be eliminated through the bankruptcy process for principled policy reasons, such as debts for child support, taxes, criminal fines and intentional injury.

Five years ago, however, Congress, without any hearings, changed the bankruptcy law to make private student loans made by private, for-profit lenders extremely difficult to discharge in bankruptcy. Currently, Section 523(a)(8) of the Bankruptcy Code prohibits the discharge of private educational debt unless the debtor can prove that repayment would impose an “undue hardship” on the debtor and the debtor’s dependents. However, it’s almost impossible for a debtor ever to successfully prove “undue hardship.”

The current bankruptcy law unjustly punishes men and women who have tried to improve their lives by pursuing a higher education and all too often became victims of

predatory private student lenders. We urge you to become a cosponsor and join us in restoring the fair treatment of private student borrowers in bankruptcy.

To cosponsor this important legislation or if you have any questions please contact David Greengrass at 5-3265 or david.greengrass@mail.house.gov.

Sincerely,

/s/

Steve Cohen
Member of Congress

/s/

Danny K. Davis
Member of Congress

/s/

George Miller
Member of Congress