AMENDMENT TO H.R. 2547, AS REPORTED
OFFERED BY MR. McHENRY

Strike all after the enacting clause and insert the following:

1 SECTION 1. REQUIREMENT FOR CONFESSIONS OF JUDGMENT.
2 (a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following:
3 “§ 140B. Unfair credit practices
4 “In connection with the extension of credit or creation of debt in or affecting commerce, as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44), including any advance of funds or sale or assignment of future income or receivables that may or may not be credit, no person may take or receive from another person an obligation that constitutes or contains a cognovit or confession of judgment (for purposes other than executory process in the State of Louisiana), warrant of attorney, or other waiver of the right to notice and the opportunity to be heard in the event of suit or process thereon unless the other person provides to the lender a written affidavit
describing the nature of the default and the date on which such default occurred.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 103, by adding at the end the following:

“(ff) The term ‘debt’ means any obligation of a person to pay to another person money—

“(1) regardless of whether such obligation is absolute or contingent if the understanding between the parties is that any part of the money shall be or may be returned;

“(2) that includes the right of the person providing the money to an equitable remedy for breach of performance if the breach gives rise to a right to payment; and

“(3) regardless of whether the obligation or right to an equitable remedy described in paragraph (2) has been reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.”; and

(2) in section 130(a), by striking “creditor” each place the term appears and inserting “person”.
SEC. 2. ENHANCED PROTECTION AGAINST DEBT COLLECTOR HARASSMENT OF SERVICEMEMBERS.

(a) COMMUNICATION IN CONNECTION WITH DEBT COLLECTION.—Section 805 of the Fair Debt Collection Practices Act (15 U.S.C. 1692c) is amended by adding at the end the following:

“(e) COMMUNICATIONS CONCERNING SERVICEMEMBER DEBTS.—

“(1) DEFINITION.—In this subsection, the term ‘covered member’ means—

“(A) a covered member or a dependent as defined in section 987(i) of title 10, United States Code; and

“(B)(i) an individual who was separated, discharged, or released from duty described in such section 987(i)(1), but only during the 365-day period beginning on the date of separation, discharge, or release; or

“(ii) a person, with respect to an individual described in clause (i), described in subparagraph (A), (D), (E), or (I) of section 1072(2) of title 10, United States Code.

“(2) PROHIBITIONS.—A debt collector may not, in connection with the collection of any debt of a covered member—
“(A) threaten to have the covered member reduced in rank;

“(B) threaten to have the covered member’s security clearance revoked; or

“(C) threaten to have the covered member prosecuted under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).”.

(b) UNFAIR PRACTICES.—Section 808 of the Fair Debt Collection Practices Act (15 U.S.C. 1692f) is amended by adding at the end the following:

“(9) The representation to any covered member (as defined under section 805(e)(1)) that failure to cooperate with a debt collector will result in—

“(A) a reduction in rank of the covered member;

“(B) a revocation of the covered member’s security clearance; or

“(C) prosecution under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).”.

SEC. 3. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the impact of debt collection on covered members (as defined under section
805(e)(1) of the Fair Debt Collection Practices Act, as added by section 201), which shall—

(1) identify types of false, deceptive, misleading, unfair, abusive, and harassing debt collection practices experienced by covered members and make recommendations to eliminate these practices;

(2) identify collection practices of creditors and debt collectors experienced by covered members;

(3) discuss the effect of these practices on military readiness; and

(4) discuss any national security implications, including the extent to which covered members with security clearances would be impacted by uncollected debt.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the completed study required under subsection (a).

SEC. 4. PROTECTIONS FOR OBLIGORS AND COSIGNERS IN CASES OF DEATH OR TOTAL AND PERMANENT DISABILITY.

(a) IN GENERAL.—Section 140(g) of the Truth in Lending Act (15 U.S.C. 1650) is amended—

(1) in paragraph (2)—
(A) in the heading, by striking “IN CASE OF DEATH OF BORROWER”; 
(B) in subparagraph (A), by inserting after “of the death”, the following: “or total and permanent disability”; and 
(C) in subparagraph (C), by inserting after “of the death”, the following: “or total and permanent disability”; and 
(2) by adding at the end the following:

“(3) DISCHARGE IN CASE OF DEATH OR TOTAL AND PERMANENT DISABILITY OF BORROWER.—The holder of a private education loan may, upon request of the estate of a deceased student obligor or, in the case of a student obligor who incurs a total and permanent disability, upon certification by a medical professional of such total and permanent disability, discharge the liability of the student obligor on the loan and may not, after such a discharge—

“(A) attempt to collect on the outstanding liability of the student obligor; and

“(B) in the case of total and permanent disability, monitor the disability status of the student obligor at any point after the date of discharge.
“(4) TOTAL AND PERMANENT DISABILITY DEFINED.—For the purposes of this subsection and with respect to an individual, the term ‘total and permanent disability’ means the individual is totally and permanently disabled, as such term is defined in section 685.102(b) of title 34 of the Code of Federal Regulations.”.

(b) RULEMAKING.—The Director of the Bureau of Consumer Financial Protection may issue rules to implement the amendments made by subsection (a) as the Director determines appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 5. EXCLUSION OF PAID MEDICAL DEBT.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

“(9) Paid debt arising from the receipt of medically necessary, non-elective medical services, products, or devices which from the date of payment, antedate the report by more than 1 year.”.
SEC. 6. OPT-OUT NOTICE FOR ELECTRONIC COMMUNICATIONS OR ATTEMPTS TO COMMUNICATE.

Section 805 of the Fair Debt Collection Practices Act (15 U.S.C. 1692c), as amended by this Act, is further amended by adding at the end the following new subsection:

“(f) Opt-out Notice for Electronic Communications or Attempts to Communicate.—A debt collector who communicates or attempts to communicate with a consumer electronically in connection with the collection of a debt using a specific email address, telephone number for text messages, or other electronic-medium address shall include in such communication or attempt to communicate a clear and conspicuous statement describing a reasonable and simple method by which the consumer can opt out of further electronic communications or attempts to communicate by the debt collector to that address or telephone number. The debt collector may not require, directly or indirectly, that the consumer, in order to opt out, pay any fee to the debt collector or provide any information other than the consumer’s opt-out preferences and the email address, telephone number for text messages, or other electronic-medium address subject to the opt-out request.”.
SEC. 7. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date that is 180 days after the date of enactment of this Act.