

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 JUDGE-**
2 **MENT.**

3 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
4 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
5 at the end the following:

6 **“§ 140B. Unfair credit practices**

7 “In connection with the extension of credit or cre-
8 ation of debt in or affecting commerce, as defined in sec-
9 tion 4 of the Federal Trade Commission Act (15 U.S.C.
10 44), including any advance of funds or sale or assignment
11 of future income or receivables that may or may not be
12 credit, no person may take or receive from another person
13 an obligation that constitutes or contains a cognovit or
14 confession of judgment (for purposes other than executory
15 process in the State of Louisiana), warrant of attorney,
16 or other waiver of the right to notice and the opportunity
17 to be heard in the event of suit or process thereon unless
18 the other person provides to the lender a written affidavit

1 describing the nature of the default and the date on which
2 such default occurred.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

4 The Truth in Lending Act (15 U.S.C. 1601 et seq.) is
5 amended—

6 (1) in section 103, by adding at the end the fol-
7 lowing:

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

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

14 “(2) that includes the right of the person pro-
15 viding the money to an equitable remedy for breach
16 of performance if the breach gives rise to a right to
17 payment; and

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

23 (2) in section 130(a), by striking “creditor”
24 each place the term appears and inserting “person”.

1 **SEC. 2. ENHANCED PROTECTION AGAINST DEBT COL-**
2 **LECTOR HARASSMENT OF**
3 **SERVICEMEMBERS.**

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

8 “(e) COMMUNICATIONS CONCERNING SERVICEMEM-
9 BER DEBTS.—

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

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

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

20 “(ii) a person, with respect to an individual
21 described in clause (i), described in subpara-
22 graph (A), (D), (E), or (I) of section 1072(2)
23 of title 10, United States Code.

24 “(2) PROHIBITIONS.—A debt collector may not,
25 in connection with the collection of any debt of a
26 covered member—

1 “(A) threaten to have the covered member
2 reduced in rank;

3 “(B) threaten to have the covered mem-
4 ber’s security clearance revoked; or

5 “(C) threaten to have the covered member
6 prosecuted under chapter 47 of title 10, United
7 States Code (the Uniform Code of Military Jus-
8 tice).”.

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

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

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

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

19 “(C) prosecution under chapter 47 of title
20 10, United States Code (the Uniform Code of
21 Military Justice).”.

22 **SEC. 3. GAO STUDY AND REPORT.**

23 (a) STUDY.—The Comptroller General of the United
24 States shall conduct a study on the impact of debt collec-
25 tion on covered members (as defined under section

1 805(e)(1) of the Fair Debt Collection Practices Act, as
2 added by section 201), which shall—

3 (1) identify types of false, deceptive, misleading,
4 unfair, abusive, and harassing debt collection prac-
5 tices experienced by covered members and make rec-
6 ommendations to eliminate these practices;

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

9 (3) discuss the effect of these practices on mili-
10 tary readiness; and

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

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

19 **SEC. 4. PROTECTIONS FOR OBLIGORS AND COSIGNERS IN**
20 **CASES OF DEATH OR TOTAL AND PERMA-**
21 **NENT DISABILITY.**

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

24 (1) in paragraph (2)—

1 (A) in the heading, by striking “IN CASE
2 OF DEATH OF BORROWER”;

3 (B) in subparagraph (A), by inserting after
4 “of the death”, the following: “or total and per-
5 manent disability”; and

6 (C) in subparagraph (C), by inserting after
7 “of the death”, the following: “or total and per-
8 manent disability”; and

9 (2) by adding at the end the following:

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

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

21 “(B) in the case of total and permanent
22 disability, monitor the disability status of the
23 student obligor at any point after the date of
24 discharge.

1 “(4) TOTAL AND PERMANENT DISABILITY DE-
2 FINED.—For the purposes of this subsection and
3 with respect to an individual, the term ‘total and
4 permanent disability’ means the individual is totally
5 and permanently disabled, as such term is defined in
6 section 685.102(b) of title 34 of the Code of Federal
7 Regulations.”.

8 (b) RULEMAKING.—The Director of the Bureau of
9 Consumer Financial Protection may issue rules to imple-
10 ment the amendments made by subsection (a) as the Di-
11 rector determines appropriate.

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

15 **SEC. 5. EXCLUSION OF PAID MEDICAL DEBT.**

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

19 “(9) Paid debt arising from the receipt of medi-
20 cally necessary, non-elective medical services, prod-
21 ucts, or devices which from the date of payment,
22 antedate the report by more than 1 year.”.

1 **SEC. 6. OPT-OUT NOTICE FOR ELECTRONIC COMMUNICA-**
2 **TIONS OR ATTEMPTS TO COMMUNICATE.**

3 Section 805 of the Fair Debt Collection Practices Act
4 (15 U.S.C. 1692c), as amended by this Act, is further
5 amended by adding at the end the following new sub-
6 section:

7 “(f) OPT-OUT NOTICE FOR ELECTRONIC COMMU-
8 NICATIONS OR ATTEMPTS TO COMMUNICATE.—A debt col-
9 lector who communicates or attempts to communicate with
10 a consumer electronically in connection with the collection
11 of a debt using a specific email address, telephone number
12 for text messages, or other electronic-medium address
13 shall include in such communication or attempt to commu-
14 nicate a clear and conspicuous statement describing a rea-
15 sonable and simple method by which the consumer can opt
16 out of further electronic communications or attempts to
17 communicate by the debt collector to that address or tele-
18 phone number. The debt collector may not require, directly
19 or indirectly, that the consumer, in order to opt out, pay
20 any fee to the debt collector or provide any information
21 other than the consumer’s opt-out preferences and the
22 email address, telephone number for text messages, or
23 other electronic-medium address subject to the opt-out re-
24 quest.”.

1 **SEC. 7. EFFECTIVE DATE.**

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

