AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO S. 1098
OFFERED BY MS. FOXX OF NORTH CAROLINA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Joint Consolidation Loan Separation Act”.

SEC. 2. AUTHORIZATION OF GUIDANCE TO SEPARATE JOINT CONSOLIDATION LOANS.
Section 428C of the Higher Education Act of 1965 (20 U.S.C. 1078–3) is amended—
(1) in subsection (a)(3)(B)(i)—
(A) by striking “and” at the end of subclause (IV);
(B) by striking the period at the end of subclause (V) and inserting “; and”; and
(C) by adding at the end the following:
“(VI) separation of a joint consolidation loan into individual consolidation loans in accordance with subsection (g) shall not be considered re-
ceipt of a consolidation loan for purposes of this clause, and an individual’s status as an eligible borrower shall not change solely as a result of such a separation.”; and

(2) by adding at the end the following:

“(g) SECRETARY GUIDANCE ON JOINT CONSOLIDATION LOANS.—

“(1) IN GENERAL.—

“(A) AUTHORIZATION.—Notwithstanding section 421(d), a married couple, or two individuals who were previously married and received a joint consolidation loan under subsection (a)(3)(C) (as such subsection was in effect on June 30, 2006), may jointly request the Secretary or holder, in accordance with paragraph (2), to separate the existing joint consolidation loan into two individual consolidation loans.

“(B) ELIGIBILITY FOR BORROWERS IN DEFAULT.—A married couple, or two individuals who were previously a married couple, who received a joint consolidation loan described in subparagraph (A) and are in default on such joint consolidation loan may both be eligible for
separation of such joint consolidation loan into
two individual consolidation loans in accordance
with this subsection.

“(C) ELIGIBILITY FOR INDIVIDUAL RE-
QUESTS.—

“(i) CIRCUMSTANCES ALLOWING FOR
SEPARATE APPLICATION.—An individual
who is one of the parties who received a
joint consolidation loan described in sub-
paragraph (A) may, separately and without
regard to whether or when the other indi-

vidual borrower who received such joint
consolidation loan applies under subpara-
graph (A), request separation of such joint
consolidation loan into two individual con-
solidation loans in accordance with this
subsection in a case in which the request-
ing individual borrower certifies to the Sec-

retary that such borrower—

“(I) has experienced an act of
domestic violence from the other indi-

vidual borrower;

“(II) has experienced an act of
economic abuse from the other indi-

vidual borrower; or
“(III) is subject to a divorce decree, court order, or settlement agreement requiring the separation of joint loans and obligations.

“(ii) Obligation from separate application.—In the case of a joint consolidation loan that is separated upon request of an individual borrower due to one or more circumstances described in clause (i), the other non-applying individual borrower shall be liable for the outstanding balance of the individual consolidation loan of such borrower in the same manner as if both borrowers of the joint consolidation loan had applied for such separation.

“(2) Secretarial and holder requirements.—Notwithstanding subsection (a)(3)(A) or any other provision of law, the Secretary or holder may separate the joint consolidation loan for eligible borrowers who meet the eligibility requirements specified in paragraph (1). The two separate individual consolidation loans shall—

“(A) be for an amount equal to the product of—
“(i) the unpaid principal and accrued unpaid interest of the joint consolidation loan (as of the date that is the day before separation of the joint consolidation loan) and any outstanding charges and fees with respect to such loan; and

“(i) the percentage of the joint consolidation loan attributable to the loans of the individual borrower for whom such separate consolidation loan is being separated, as determined—

“(I) on the basis of the loan obligations of such borrower with respect to such joint consolidation loan (as of the date such joint consolidation loan was made); or

“(II) in the case in which both borrowers request, on the basis of proportions requested by the borrowers, outlined in a divorce decree, court order, or settlement agreement;

“(B) have the same rate of interest as the joint consolidation loan (as of the date that is the day before separation of the joint consolidation loan); and
“(C) not be considered new loans, shall be deemed to have been made on the date such joint consolidation loan was made, and shall have the same terms and conditions as other consolidation loans made under this part on such date.”.