

## The Fairness for Struggling Students Act of 2015 Summary

The Fairness for Struggling Students Act will help address the student debt crisis by once again permitting privately issued student loans to be discharged in bankruptcy, the same as nearly all other forms of private unsecured debt.

The Student Debt Crisis: Our nation continues to face a student debt crisis, with students and graduates carrying nearly \$1.2 trillion in outstanding student loan debt, according to the Consumer Financial Protection Bureau. Balances of student loans have surpassed both auto loans and credit cards, making student loan debt the nation's largest form of consumer debt outside of mortgages. The CFPB estimates that around 40 million borrowers held student loan debt in 2013, with an average balance of roughly \$30,000.

Private Student Loans: While the overall growth of student debt is troubling, private student loans are a particularly urgent concern. While federal student loans have affordable interest rates and a variety of consumer protections and repayment options, private student loans often have high, variable interest rates, hefty origination fees and a lack of repayment options. In 2013 the CFPB reported that outstanding private student loan debt was approximately \$165 billion. The CFPB also reported in 2012 that at least 850,000 individual private student loans amounting to more than \$8 billion were in default.

Bankruptcy Treatment of Private Student Loans: Prior to 2005, only government-issued or guaranteed student loans were treated as nondischargeable debts by the bankruptcy code. However, the 2005 bankruptcy reform law included a provision making private student loan debt nondischargeable in bankruptcy except in extreme circumstances. This provision gave private student loans uniquely privileged treatment in bankruptcy, since nearly all types of private unsecured debt (such as credit card and medical debt) are dischargeable while only a few other types of debts (such as child support payments, alimony, overdue taxes and criminal fines) are treated as nondischargeable. This unjustified provision has incentivized lenders to extend high-cost private loans to students who are unlikely to be able to repay them, and it means that students saddled with these loans will be burdened with them for life.

### The Fairness for Struggling Students Act:

The Fairness for Struggling Students Act will reverse the 2005 change to the bankruptcy code, restoring the availability of bankruptcy relief for private student loans and treating those loans like other forms of private debt such as credit card debt.

- This reform will make important relief available to students who are being crushed by private student loan debt.
- It will discourage private lenders from extending risky loans in the future.
- The bill preserves nondischargeability for federal loans, which are backed by taxpayer dollars and come with greater consumer protections.
- The bill will not cause a rush to the bankruptcy courts, as the 2005 law created significant safeguards to prevent abuse by debtors of the bankruptcy system.