

116TH CONGRESS
1ST SESSION

H. R. 3764

To amend title 9 of the United States Code to prohibit predispute arbitration agreements that force arbitration of disputes arising from private education loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2019

Ms. SCANLON (for herself, Mrs. DAVIS of California, Mr. CICILLINE, and Mr. NADLER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 9 of the United States Code to prohibit predispute arbitration agreements that force arbitration of disputes arising from private education loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Student
5 Borrowers Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to—

1 (1) prohibit private educational lenders from
2 using predispute arbitration agreements in their pri-
3 vate education loans; and

4 (2) to prohibit private educational lenders from
5 using predispute joint-action waivers in their private
6 education loans.

7 **SEC. 3. ARBITRATION OF PRIVATE EDUCATION LOAN DIS-**
8 **PUTES.**

9 (a) IN GENERAL.—Title 9 of the United States Code
10 is amended by adding at the end the following:

11 **“CHAPTER 4—ARBITRATION OF PRIVATE**
12 **EDUCATION LOAN DISPUTES**

“401. Definitions.

“402. No validity or enforceability.

13 **“§ 401. Definitions**

14 “In this chapter—

15 “(1) the term ‘private education loan’ has the
16 meaning given that term under section 140 of the
17 Truth in Lending Act;

18 “(2) the term ‘predispute arbitration agree-
19 ment’ means an agreement to arbitrate a dispute
20 that has not yet arisen at the time of the making
21 of the agreement; and

22 “(3) the term ‘predispute joint-action waiver’
23 means an agreement, whether or not part of a
24 predispute arbitration agreement, that would pro-

1 hibit, or waive the right of, one of the parties to the
2 agreement to participate in a joint, class, or collec-
3 tive action in a judicial, arbitral, administrative, or
4 other forum, concerning a dispute that has not yet
5 arisen at the time of the making of the agreement.

6 **“§ 402. No validity or enforceability**

7 “(a) IN GENERAL.—Notwithstanding any other pro-
8 vision of this title, no predispute arbitration agreement or
9 predispute joint-action waiver shall be valid or enforceable
10 with respect to a dispute relating to a private education
11 loan.

12 “(b) APPLICABILITY.—

13 “(1) IN GENERAL.—An issue as to whether this
14 chapter applies with respect to a dispute shall be de-
15 termined under Federal law. The applicability of this
16 chapter to an agreement to arbitrate and the validity
17 and enforceability of an agreement to which this
18 chapter applies shall be determined by a court, rath-
19 er than an arbitrator, irrespective of whether the
20 party resisting arbitration challenges the arbitration
21 agreement specifically or in conjunction with other
22 terms of the contract containing such agreement,
23 and irrespective of whether the agreement purports
24 to delegate such determinations to an arbitrator.

1 “(2) COLLECTIVE BARGAINING AGREEMENTS.—
2 Nothing in this chapter shall apply to any arbitra-
3 tion provision in a contract between an employer and
4 a labor organization or between labor organizations,
5 except that no such arbitration provision shall have
6 the effect of waiving the right of a worker to seek
7 judicial enforcement of a right arising under a provi-
8 sion of the Constitution of the United States, a
9 State constitution, or a Federal or State statute, or
10 public policy arising therefrom.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) IN GENERAL.—Title 9 of the United States
13 Code is amended—

14 (A) in section 1 by striking “of seamen,”
15 and all that follows through “interstate com-
16 merce,” and inserting in its place “of individ-
17 uals, regardless of whether such individuals are
18 designated as employees or independent con-
19 tractors for other purposes”;

20 (B) in section 2 by inserting “or as other-
21 wise provided in chapter 4” before the period at
22 the end;

23 (C) in section 208—

24 (i) in the section heading by striking
25 “**CHAPTER 1; RESIDUAL APPLICA-**

1 **TION**’ and inserting “**APPLICATION**”;

2 and

3 (ii) by adding at the end the fol-
4 lowing: “This chapter applies to the extent
5 that this chapter is not in conflict with
6 chapter 4.”; and

7 (D) in section 307—

8 (i) in the section heading by striking

9 “**CHAPTER 1; RESIDUAL APPLICA-**
10 **TION**’ and inserting “**APPLICATION**”;

11 and

12 (ii) by adding at the end the fol-
13 lowing: “This chapter applies to the extent
14 that this chapter is not in conflict with
15 chapter 4.”.

16 (2) TABLE OF SECTIONS.—

17 (A) CHAPTER 2.—The table of sections of
18 chapter 2 of title 9, United States Code, is
19 amended by striking the item relating to section
20 208 and inserting the following:

“208. Application.”.

21 (B) CHAPTER 3.—The table of sections of
22 chapter 3 of title 9, United States Code, is
23 amended by striking the item relating to section
24 307 and inserting the following:

“307. Application.”.

1 (3) TABLE OF CHAPTERS.—The table of chap-
2 ters of title 9, United States Code, is amended by
3 adding at the end the following:

“4. Arbitration of private education loan disputes”.

4 **SEC. 4. EFFECTIVE DATE.**

5 This Act, and the amendments made by this Act,
6 shall take effect on the date of enactment of this Act and
7 shall apply with respect to any dispute or claim that arises
8 or accrues on or after such date.

○