

Congressmen Cohen, Davis and Swalwell Introduce the Private Student Loan Bankruptcy Fairness Act

July 30, 2021 | Press Release

Changes the law to permit discharge in bankruptcy

WASHINGTON – Congressmen Steve Cohen (TN-09), Danny K. Davis (IL-07), and Eric Swalwell (CA-15) today introduced the Private Student Loan Bankruptcy Fairness Act. This legislation would restore fairness in student lending by treating privately issued student loans the same as other types of private debt are treated in bankruptcy. Until 2005, this type of student loan debt was dischargeable in bankruptcy, but a change to the bankruptcy code that year removed that consumer protection.

Congressman Cohen made the following statement:

“People who seek a higher education to better their futures should not be discouraged from doing so by the threat of financial ruin. No one wants to declare bankruptcy, but the bankruptcy system should work as a safety net allowing people to get the education they want with the assurance that, should their finances face the unexpected strains of layoffs, accidents or other unforeseen events, such as our ongoing pandemic, they will be protected. Our bill would provide that assurance.”

Congressman Davis made the following statement:

“Student loan debt is crushing millions of borrowers, especially students of color. The pandemic’s dual economic and health crises have only exacerbated this harm, and education borrowers deserve the same bankruptcy protections enjoyed by other consumer borrowers. The 2005 bankruptcy restrictions penalize borrowers for pursuing higher education, provide no incentive to private lenders to lend responsibly, and likely affect African American borrowers more negatively than other borrowers. Private education debt is no different than other consumer debt; it involves private profit and deserves no privileged treatment. I will work actively with Congressman Cohen and Senator Durbin to protect student borrowers.”

Congressman Swalwell made the following statement:

“Too many Americans are having to defer their dreams – starting a family, buying a home, launching a business – because they’re stuck in student loan debt. The Private Student Loan Bankruptcy Fairness Act will allow borrowers who have fallen on tough times to start their adult lives without fear of financial ruin, so that they are better able to pursue their dreams.”

Before changes were made to the Bankruptcy Code in 2005, only government-issued or government-guaranteed student loans were excluded from discharge in bankruptcy. This protection was intended to safeguard federal investments in higher education. Today’s bill would restore the bankruptcy law pertaining to private student loans and allow them to be discharged in bankruptcy.

Private student loans lack the critical consumer protections that come with federal student loans. For example, private lenders are not required to – and typically do not – provide any of the deferments, income-based repayment plans, cancellation rights or loan forgiveness programs that are available to federal student loan borrowers.

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