

117TH CONGRESS  
1ST SESSION

# H. R. 1023

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2021

Ms. SCANLON (for herself, Mr. NADLER, Mr. CICILLINE, Mrs. DEMINGS, Mr. RASKIN, Mr. CARSON, Ms. LEE of California, Mr. AGUILAR, Mr. EVANS, Ms. BROWNLEY, Mr. JOHNSON of Georgia, and Ms. JAYAPAL) introduced the following bill; which was referred to the Committee on the Judiciary

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## 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.

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