

Ensuring Continued Access to Student Loans Act of 2008

H.R. 5715 Passed By Senate, Amendments Make Significant Changes To FSA Programs

H.R. 5715, a bill that seeks to help stave off potential access problems for borrowers of federal student loans, continues to build steam. The Senate approved H.R. 5715 utilizing a "[unanimous consent](#)" procedural motion yesterday afternoon. The Senate decision comes after the House overwhelmingly passed the bill last week and after pressure from the Bush Administration to move the legislation along quickly. The Senate did add some amendments, several of which make significant changes to the ACG and SMART Grant programs. The bill must once again be brought before the House for another vote before making it to the president's desk. The House vote will occur today.

A comprehensive summary of the bill, including all amendments passed by the House and Senate, follows. [Text of H.R. 5715](#) is available online.

(Editor's Note: President Bush signed this bill into law on May 7, 2008.)

Increase Annual and Aggregate Stafford Loan Limits (Updated 05/08/08)

The amendments made by this section shall be effective for loans first disbursed on or after July 1, 2008. For students enrolled as regular students in eligible programs:

- The bill introduces an additional unsubsidized Stafford annual limit of \$2,000 for undergraduate dependent students.
- The bill increases the additional unsubsidized Stafford annual limits by \$2,000 for dependent students whose parents are unable to borrow a PLUS loan. (Previously 1st and 2nd year students would qualify for an additional \$4,000, but now will qualify for \$6,000. For students who have successfully completed their first two years, the limits will increase from \$5,000 to \$7,000.)
- The bill increases the additional unsubsidized Stafford annual limits by \$2,000 for independent undergraduate students. (Previously 1st and 2nd year students would qualify for an additional \$4,000, but now will qualify for \$6,000. For students who have successfully completed their first two years, the limits will increase from \$5,000 to \$7,000.)
- The amendatory language has designated a separate category for graduate and professional students; these students will not see any annual limit increases. Their additional unsubsidized Stafford annual limit remains \$12,000. (Previously the Senate sought to increase annual limits for graduate students, but that provision did not make it into the final bill).
- The bill increases aggregate unsubsidized loan amounts for undergraduate dependent students from \$23,000 to \$31,000 (minus subsidized borrowing)
- The bill increases aggregate unsubsidized loan amounts for undergraduate independent students from \$46,000 to \$57,500 (minus subsidized borrowing)

There has been some confusion about dependent students and dependent student whose parents are unable to borrow a PLUS loan. The bill divides those students into separate categories and gives each of them a \$2,000 additional unsubsidized Stafford annual loan limit increase. It does not offer a dependent student a \$2,000 increase, and then another \$2,000 increase if their parents are denied a PLUS loan.

Stafford Loan Limits for Students Enrolled in Preparatory Coursework and Teacher Certification (Updated 05/08/08)

Previously, the law distinguished between preparation for entry into an undergraduate program versus preparation for entry into a graduate program only in terms of the level of the program into which acceptance was sought. Previously the law also required that a student taking preparatory coursework for acceptance into a graduate program must already have a baccalaureate in order to qualify for a loan for the preparatory coursework, up to \$7,000. A student who was not actually accepted into a

graduate program would not have been considered to be on a graduate level - rather such a student was considered to be in preparation for entry into a graduate program and subject to the preparatory loan limits.

But, the amendatory language appears to define separate loan limit categories according to the student's status as an undergraduate versus a graduate student, rather than in terms of the level of the program into which acceptance is sought. For graduate or professional students enrolled in preparatory coursework or teacher certification, the additional unsubsidized Stafford annual limit is \$7,000. It remains unclear, however, which students would meet the definition of graduate or professional student enrolled in preparatory coursework or teacher certification.

H.R. 5715 does not mention or address annual loan increases for dependent students enrolled in preparatory coursework or teacher certification. It is unclear how the Department will define the maximum annual loan limits for dependent students in that situation.

Undergraduate independent students (or dependent students whose parents are unable to borrow a PLUS loan) enrolled in preparatory coursework will receive an additional unsubsidized Stafford annual limit increase from \$4,000 to \$6,000. But under the amendatory language, it appears undergraduate independent students enrolled in teacher certification courses will actually see an additional unsubsidized Stafford annual limit decrease from \$7,000 to \$6,000.

It also remains unclear whether the Department will consider undergraduate independent students who are seeking entry into a graduate program as graduate or professional students, allowing them access to the additional \$7,000.

Changes to ACG & SMART Grants

As amended by the Senate, the bill:

- Directs all savings generated by the bill into the ACG and SMART Grant programs
- Adds a fifth year to SMART Grant eligibility for programs that require five years
- Allows students attending at least half time to qualify for ACG and SMART Grants and requires proration based on Pell Grant methodology for less than full-time attendance
- Allows eligible non-citizens (e.g. permanent residents) to qualify for ACG and SMART Grants
- Changes "academic year" to simply "year" for purposes of progression through grant levels, but did not include companion amendment recommended by NASFAA that would have allowed students who are classified as second year based solely on AP or IB coursework to be considered to have met the second year 3.0 GPA requirement
- Allows students who are enrolled in an institution that offers a single baccalaureate-level liberal arts curriculum that permits no subject area major, but who are taking coursework in an area equivalent to a SMART-eligible major at other bachelor degree-granting institutions, to qualify for SMART Grant eligibility
- Extends first-year ACG eligibility to students enrolled in at least a one-year certificate program and extends second-year ACG to students enrolled in at least a two-year certificate program. In both cases the certificate must be offered by a degree-granting institution
- Appears to remove some of the Secretary's authority to define "rigorous secondary school program of study," permitting only states to designate such programs. This amendment may further restrict what is currently considered a rigorous program

Grace Period and Deferral For Parent PLUS Borrowers

Beginning July 1, 2008, the bill would allow parents to choose to defer payments on a PLUS loan until six months after the date the student ceases to be enrolled at least half time. Accruing interest could either be paid by the parent borrower monthly or quarterly, or be capitalized quarterly.

Special Provision for Parents Delinquent on Mortgage Payments

The bill would allow lenders to consider parents eligible for PLUS loans even if, during the period January 1, 2007, through December 31, 2009, the parents are or were:

- No more than 180 days delinquent on a mortgage payment on their primary residence
- No more than 180 days delinquent on any medical bill payments
- No more than 89 days delinquency on the repayment of "any other debt"

Suspension of Master Calendar and Negreg

The Department will be allowed to implement all the provisions of the bill with the exception of the changes made to the ACG and SMART Grant programs without conforming to the master calendar deadline dates and without negotiated rulemaking. Thus, the Department will be able to move quickly to prevent student loan disruptions, although it also means that the loan amendments can be implemented without input from the community. The ACG/SMART Grant program regulations will be subject to negotiated rulemaking.