

107TH CONGRESS  
1ST SESSION

# H. R. 3086

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## AN ACT

To provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President of the United States on September 14, 2001.

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## AN ACT

To provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President of the United States on September 14, 2001.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Higher Education Re-  
3 lief Opportunities for Students Act of 2001”.

4 **SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO NATIONAL**  
5 **EMERGENCY.**

6 (a) **WAIVERS AND MODIFICATIONS.**—

7 (1) **IN GENERAL.**—Notwithstanding any other  
8 provision of law, unless enacted with specific ref-  
9 erence to this section, the Secretary of Education  
10 (referred to in this Act as the ‘Secretary’) may waive  
11 or modify any statutory or regulatory provision ap-  
12 plicable to the student financial aid programs under  
13 title IV of the Higher Education Act of 1965 (20  
14 U.S.C. 1070 et seq.) as the Secretary deems nec-  
15 essary in connection with the national emergency to  
16 provide the waivers or modifications authorized by  
17 paragraph (2).

18 (2) **ACTIONS AUTHORIZED.**—The Secretary is  
19 authorized to waive or modify any provision de-  
20 scribed in paragraph (1) as may be necessary to en-  
21 sure that—

22 (A) borrowers of Federal student loans  
23 who are affected individuals are not placed in a  
24 worse position financially in relation to those  
25 loans because of their status as affected individ-  
26 uals;

1           (B) administrative requirements placed on  
2 affected individuals who are borrowers of Fed-  
3 eral student loans are minimized, to the extent  
4 possible without impairing the integrity of the  
5 student loan programs, to ease the burden on  
6 such borrowers and avoid inadvertent, technical  
7 violations or defaults;

8           (C) the calculation of “annual adjusted  
9 family income” and “available income”, as used  
10 in the determination of need for student finan-  
11 cial assistance under title IV of the Higher  
12 Education Act of 1965 (20 U.S.C. 1070 et  
13 seq.) for any such affected individual (and the  
14 determination of such need for his or her  
15 spouse and dependents, if applicable), may be  
16 modified to mean the sums received in the first  
17 calendar year of the award year for which such  
18 determination is made, in order to reflect more  
19 accurately the financial condition of such af-  
20 fected individual and his or her family; and

21           (D) institutions of higher education, eligi-  
22 ble lenders, guaranty agencies, and other enti-  
23 ties participating in the student assistance pro-  
24 grams under title IV of the Higher Education  
25 Act of 1965 (20 U.S.C. 1070 et seq.) that are

1 located in, or whose operations are directly af-  
2 fected by, areas that are declared disaster areas  
3 by any Federal, State, or local official in con-  
4 nection with the national emergency may be  
5 granted temporary relief from requirements  
6 that are rendered infeasible or unreasonable by  
7 the national emergency, including due diligence  
8 requirements and reporting deadlines.

9 (b) NOTICE OF WAIVERS OR MODIFICATIONS.—

10 (1) IN GENERAL.—Notwithstanding section 437  
11 of the General Education Provisions Act (20 U.S.C.  
12 1232) and section 553 of title 5, United States  
13 Code, the Secretary shall, by notice in the Federal  
14 Register, publish the waivers or modifications of  
15 statutory and regulatory provisions the Secretary  
16 deems necessary to achieve the purposes of this sec-  
17 tion.

18 (2) TERMS AND CONDITIONS.—The notice  
19 under paragraph (1) shall include the terms and  
20 conditions to be applied in lieu of such statutory and  
21 regulatory provisions.

22 (3) CASE-BY-CASE BASIS.—The Secretary is not  
23 required to exercise the waiver or modification au-  
24 thority under this section on a case-by-case basis.

1           (c) **IMPACT REPORT.**—The Secretary shall, not later  
2 than 15 months after first exercising any authority to  
3 issue a waiver or modification under subsection (a), report  
4 to the Committee on Education and the Workforce of the  
5 House of Representatives and the Committee on Health,  
6 Education, Labor and Pensions of the Senate on the im-  
7 pact of any waivers or modifications issued pursuant to  
8 subsection (a) on affected individuals and the programs  
9 under title IV of the Higher Education Act of 1965 (20  
10 U.S.C. 1070 et seq.), and the basis for such determina-  
11 tion, and include in such report the Secretary’s rec-  
12 ommendations for changes to the statutory or regulatory  
13 provisions that were the subject of such waiver or modi-  
14 fication.

15           (d) **NO DELAY IN WAIVERS AND MODIFICATIONS.**—  
16 Sections 482(c) and 492 of the Higher Education Act of  
17 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the  
18 waivers and modifications authorized or required by this  
19 Act.

20 **SEC. 3. TUITION REFUNDS OR CREDITS FOR MEMBERS OF**  
21 **ARMED FORCES.**

22           (a) **SENSE OF CONGRESS.**—It is the sense of Con-  
23 gress that—

24                   (1) all institutions offering postsecondary edu-  
25 cation should provide a full refund to students who

1 are members of the Armed Forces serving on active  
2 duty during the national emergency, for that portion  
3 of a period of instruction such student was unable  
4 to complete, or for which such individual did not re-  
5 ceive academic credit, because he or she was called  
6 up for such service; and

7 (2) if affected individuals withdraw from a  
8 course of study as a result of such service, such in-  
9 stitutions should make every effort to minimize de-  
10 ferral of enrollment or reapplication requirements  
11 and should provide the greatest flexibility possible  
12 with administrative deadlines related to those appli-  
13 cations.

14 (b) DEFINITION OF FULL REFUND.—For purposes  
15 of this section, a full refund includes a refund of required  
16 tuition and fees, or a credit in a comparable amount  
17 against future tuition and fees.

18 **SEC. 4. USE OF PROFESSIONAL JUDGMENT.**

19 At the time of publishing any waivers or modifica-  
20 tions pursuant to section 2(b), the Secretary shall publish  
21 examples of measures which institutions may take in the  
22 appropriate exercise of discretion under section 479A of  
23 the Higher Education Act of 1965 (20 U.S.C. 1087tt) to  
24 adjust financial need and aid eligibility determinations for  
25 affected individuals.

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) **ACTIVE DUTY.**—The term ‘active duty’ has  
4 the meaning given such term in section 101(d)(1) of  
5 title 10, United States Code, except that such term  
6 does not include active duty for training or attend-  
7 ance at a service school.

8 (2) **AFFECTED INDIVIDUAL.**—The term ‘af-  
9 fected individual’ means an individual who—

10 (A) is serving on active duty during the  
11 national emergency;

12 (B) resides or is employed in an area that  
13 is declared a disaster area by any Federal,  
14 State, or local official in connection with the  
15 national emergency; or

16 (C) suffered direct economic hardship as a  
17 direct result of the national emergency, as de-  
18 termined under a waiver or modification issued  
19 under this Act.

20 (3) **FEDERAL STUDENT LOAN.**—The term ‘Fed-  
21 eral student loan’ means a loan made, insured, or  
22 guaranteed under part B, D, or E of title IV of the  
23 Higher Education Act of 1965 (20 U.S.C. 1071 et  
24 seq., 20 U.S.C. 1087a et seq., and 20 U.S.C.  
25 1087aa et seq.).

1           (4) NATIONAL EMERGENCY.—The term ‘na-  
2           tional emergency’ means the national emergency by  
3           reason of certain terrorist attacks declared by the  
4           President on September 14, 2001, or subsequent na-  
5           tional emergencies declared by the President by rea-  
6           son of terrorist attacks.

7           (5) SERVING ON ACTIVE DUTY DURING THE NA-  
8           TIONAL EMERGENCY.—The term ‘serving on active  
9           duty during the national emergency’ shall include an  
10          individual who is—

11                (A) a Reserve of an Armed Force ordered  
12                to active duty under section 12301(a),  
13                12301(g), 12302, 12304, or 12306 of title 10,  
14                United States Code, or any retired member of  
15                an Armed Force ordered to active duty under  
16                section 688 of such title, for service in connec-  
17                tion with such emergency or subsequent actions  
18                or conditions, regardless of the location at  
19                which such active duty service is performed;  
20                and

21                (B) any other member of an Armed Force  
22                on active duty in connection with such emer-  
23                gency or subsequent actions or conditions who  
24                has been assigned to a duty station at a loca-

1           tion other than the location at which such mem-  
2           ber is normally assigned.

3 **SEC. 6. TERMINATION OF AUTHORITY.**

4           The provisions of this Act shall cease to be effective  
5 on September 30, 2003.

          Passed the House of Representatives October 23,  
2001.

Attest:

*Clerk.*