

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO S. 1098
OFFERED BY MS. FOXX OF NORTH
CAROLINA

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Joint Consolidation
3 Loan Separation Act”.

4 **SEC. 2. AUTHORIZATION OF GUIDANCE TO SEPARATE**
5 **JOINT CONSOLIDATION LOANS.**

6 Section 428C of the Higher Education Act of 1965
7 (20 U.S.C. 1078–3) is amended—

8 (1) in subsection (a)(3)(B)(i)—

9 (A) by striking “and” at the end of sub-
10 clause (IV);

11 (B) by striking the period at the end of
12 subclause (V) and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(VI) separation of a joint con-
15 solidation loan into individual consoli-
16 dation loans in accordance with sub-
17 section (g) shall not be considered re-

1 receipt of a consolidation loan for pur-
2 poses of this clause, and an individ-
3 ual's status as an eligible borrower
4 shall not change solely as a result of
5 such a separation.”; and

6 (2) by adding at the end the following:

7 “(g) SECRETARY GUIDANCE ON JOINT CONSOLIDA-
8 TION LOANS.—

9 “(1) IN GENERAL.—

10 “(A) AUTHORIZATION.—Notwithstanding
11 section 421(d), a married couple, or two indi-
12 viduals who were previously married and re-
13 ceived a joint consolidation loan under sub-
14 section (a)(3)(C) (as such subsection was in ef-
15 fect on June 30, 2006), may jointly request the
16 Secretary or holder, in accordance with para-
17 graph (2), to separate the existing joint consoli-
18 dation loan into two individual consolidation
19 loans.

20 “(B) ELIGIBILITY FOR BORROWERS IN DE-
21 FAULT.—A married couple, or two individuals
22 who were previously a married couple, who re-
23 ceived a joint consolidation loan described in
24 subparagraph (A) and are in default on such
25 joint consolidation loan may both be eligible for

1 separation of such joint consolidation loan into
2 two individual consolidation loans in accordance
3 with this subsection.

4 “(C) ELIGIBILITY FOR INDIVIDUAL RE-
5 QUESTS.—

6 “(i) CIRCUMSTANCES ALLOWING FOR
7 SEPARATE APPLICATION.—An individual
8 who is one of the parties who received a
9 joint consolidation loan described in sub-
10 paragraph (A) may, separately and without
11 regard to whether or when the other indi-
12 vidual borrower who received such joint
13 consolidation loan applies under subpara-
14 graph (A), request separation of such joint
15 consolidation loan into two individual con-
16 solidation loans in accordance with this
17 subsection in a case in which the request-
18 ing individual borrower certifies to the Sec-
19 retary that such borrower—

20 “(I) has experienced an act of
21 domestic violence from the other indi-
22 vidual borrower;

23 “(II) has experienced an act of
24 economic abuse from the other indi-
25 vidual borrower; or

1 “(III) is subject to a divorce de-
2 cree, court order, or settlement agree-
3 ment requiring the separation of joint
4 loans and obligations.

5 “(ii) OBLIGATION FROM SEPARATE
6 APPLICATION.—In the case of a joint con-
7 solidation loan that is separated upon re-
8 quest of an individual borrower due to one
9 or more circumstances described in clause
10 (i), the other non-applying individual bor-
11 rower shall be liable for the outstanding
12 balance of the individual consolidation loan
13 of such borrower in the same manner as if
14 both borrowers of the joint consolidation
15 loan had applied for such separation.

16 “(2) SECRETARIAL AND HOLDER REQUIRE-
17 MENTS.—Notwithstanding subsection (a)(3)(A) or
18 any other provision of law, the Secretary or holder
19 may separate the joint consolidation loan for eligible
20 borrowers who meet the eligibility requirements
21 specified in paragraph (1). The two separate indi-
22 vidual consolidation loans shall—

23 “(A) be for an amount equal to the prod-
24 uct of—

1 “(i) the unpaid principal and accrued
2 unpaid interest of the joint consolidation
3 loan (as of the date that is the day before
4 separation of the joint consolidation loan)
5 and any outstanding charges and fees with
6 respect to such loan; and

7 “(i) the percentage of the joint con-
8 solidation loan attributable to the loans of
9 the individual borrower for whom such sep-
10 arate consolidation loan is being separated,
11 as determined—

12 “(I) on the basis of the loan obli-
13 gations of such borrower with respect
14 to such joint consolidation loan (as of
15 the date such joint consolidation loan
16 was made); or

17 “(II) in the case in which both
18 borrowers request, on the basis of pro-
19 portions requested by the borrowers,
20 outlined in a divorce decree, court
21 order, or settlement agreement;

22 “(B) have the same rate of interest as the
23 joint consolidation loan (as of the date that is
24 the day before separation of the joint consolida-
25 tion loan); and

1 “(C) not be considered new loans, shall be
2 deemed to have been made on the date such
3 joint consolidation loan was made, and shall
4 have the same terms and conditions as other
5 consolidation loans made under this part on
6 such date.”.

