

119TH CONGRESS
2D SESSION

S. _____

To provide a consumer protection framework necessary to support the growth of outcomes-based student financing tools to support workforce training, postsecondary education, and economic development, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. YOUNG (for himself, Mr. WARNER, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide a consumer protection framework necessary to support the growth of outcomes-based student financing tools to support workforce training, postsecondary education, and economic development, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Outcomes-Based Financing (OBF) for Students Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX TREATMENT OF OBF PRODUCTS

Sec. 101. Exclusion of income from discharge of indebtedness.

Sec. 102. Treatment as interest on education loan.

Sec. 103. Amounts treated as educational assistance.

Sec. 104. Treatment of amounts received by OBF provider.

TITLE II—DISCLOSURES APPLICABLE TO OBF PRODUCTS

Sec. 201. Disclosures.

Sec. 202. Advertising of OBF products.

TITLE III—CONSUMER PROTECTIONS FOR OBF PRODUCTS

Sec. 301. Consumer protections.

Sec. 302. Treatment under bankruptcy laws.

TITLE IV—OTHER CLARIFICATIONS TO SUPPORT OBF PRODUCTS

Sec. 401. Consent to continuing release of taxpayer information under OBF products.

Sec. 402. Amendments to the higher education Act of 1965.

Sec. 403. Supporting outcomes-based underwriting.

Sec. 404. Treatment under the fair credit reporting act.

1 **TITLE I—TAX TREATMENT OF** 2 **OBF PRODUCTS**

3 **SEC. 101. EXCLUSION OF INCOME FROM DISCHARGE OF IN-** 4 **DEBTEDNESS.**

5 (a) IN GENERAL.—Section 108 of the Internal Rev-
6 enue Code of 1986 is amended by adding at the end the
7 following new subsection:

8 “(j) OUTCOMES-BASED FINANCING PRODUCTS.—In
9 the case of an individual, gross income does not include
10 any amount which (but for this subsection) would be in-
11 cludible in gross income by reason of—

12 “(1) the discharge (in whole or in part) of any
13 outcomes-based loan (as defined in section 140(h) of
14 the Truth in Lending Act), or

1 “(2) the termination or alteration (in whole or
2 in part) of the individual’s payment obligation under
3 an outcomes-based payment agreement (as so de-
4 fined).”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 the date of the enactment of this Act.

8 **SEC. 102. TREATMENT AS INTEREST ON EDUCATION LOAN.**

9 (a) IN GENERAL.—Section 221 of the Internal Rev-
10 enue Code of 1986 is amended by adding at the end the
11 following new subsection:

12 “(g) OUTCOMES-BASED PAYMENT AGREEMENTS.—
13 For purposes of this section—

14 “(1) IN GENERAL.—In the case of an individual
15 who enters into an outcomes-based payment agree-
16 ment for purposes of financing the qualified higher
17 education expenses of the individual, the amount de-
18 scribed in paragraph (2) shall be treated in the same
19 manner as interest paid on a qualified education
20 loan.

21 “(2) AMOUNT DESCRIBED.—The amount de-
22 scribed in this paragraph is an amount equal to the
23 excess of—

24 “(A) amounts paid by the taxpayer during
25 the taxable year under the terms of an out-

1 comes-based payment agreement described in
2 paragraph (1), over

3 “(B) the excess of—

4 “(i) the amount of the financing pro-
5 vided to the taxpayer under the terms of
6 such agreement, over

7 “(ii) the aggregate amounts paid by
8 the taxpayer under the terms of such
9 agreement in all preceding taxable years.

10 “(3) RULES TO APPLY.—Rules similar to the
11 rules of subparagraphs (A), (B), and (C) of sub-
12 section (c)(1) shall apply for purposes of deter-
13 mining whether an agreement was entered into for
14 purposes of financing the qualified higher education
15 expenses of an individual.

16 “(4) OUTCOMES-BASED PAYMENT AGREE-
17 MENT.—The term ‘outcomes-based payment agree-
18 ment’ has the meaning given such term by section
19 140(h) of the Truth in Lending Act.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 the date of the enactment of this Act.

1 **SEC. 103. AMOUNTS TREATED AS EDUCATIONAL ASSIST-**
2 **ANCE.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 127(c)(1) of the Internal Revenue Code of 1986 is amend-
5 ed by striking “, and” and inserting “or of any obligation
6 of the employee pursuant to an OBF product (as defined
7 in section 140(h) of the Truth in Lending Act) used to
8 finance education of the employee, and”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 the date of the enactment of this Act.

12 **SEC. 104. TREATMENT OF AMOUNTS RECEIVED BY OBF**
13 **PROVIDER.**

14 (a) IN GENERAL.—Part III of subchapter B of chap-
15 ter 1 of the Internal Revenue Code of 1986 is amended
16 by inserting after section 112 the following new section:
17 **“SEC. 113. AMOUNTS RECEIVED BY OUTCOMES-BASED FI-**
18 **NANCING PROVIDER.**

19 “(a) GENERAL RULE.—Gross income of an OBF pro-
20 vider does not include so much of amounts received by
21 such provider from an OBF recipient during the taxable
22 year as does not exceed an amount equal to the excess
23 of—

24 “(1) the amount of the financing provided to
25 the OBF recipient under the terms of an OBF prod-
26 uct, over

1 “(2) the aggregate amounts received by the
2 OBF provider under the terms of the product in all
3 preceding taxable years.

4 “(b) TERMS.—For purposes of this section, the terms
5 ‘OBF provider’, ‘OBF recipient’, and ‘OBF product’ have
6 the respective meanings given such terms by section
7 140(h) of the Truth in Lending Act.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for part III of subchapter B of chapter 1 of the Internal
10 Revenue Code of 1986 is amended by inserting after the
11 item relating to section 112 the following new item:

 “Sec. 113. Amounts received by outcomes-based financing provider.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 the date of the enactment of this Act.

15 **TITLE II—DISCLOSURES**

16 **APPLICABLE TO OBF PRODUCTS**

17 **SEC. 201. DISCLOSURES.**

18 (a) DISCLOSURE GUIDELINES.—Section 105 of the
19 Truth in Lending Act (15 U.S.C. 1604) is amended by
20 adding at the end the following:

21 “(j) REGULATIONS RELATED TO OBF PRODUCTS.—
22 Not later than 270 days after the date of enactment of
23 the Outcomes-Based Financing (OBF) for Students Act,
24 the Bureau shall prescribe regulations to carry out the
25 purposes of this title, which may contain such additional

1 requirements, classifications, differentiations, or other
2 provisions, and may provide for such adjustments and ex-
3 ceptions for all or any class of transactions, as in the judg-
4 ment of the Bureau are necessary or proper to effectuate
5 the purposes of this title, to prevent circumvention or eva-
6 sion thereof, or to facilitate compliance therewith.

7 “(k) MODEL DISCLOSURE FORMS AND CLAUSES FOR
8 OBF PRODUCTS.—Not later than 270 days after the date
9 of enactment of the Outcomes-Based Financing (OBF) for
10 Students Act, the Bureau shall publish a model integrated
11 disclosure for OBF products in order to facilitate compli-
12 ance with the disclosure requirements of this title and aid
13 OBF recipients in understanding the transaction by uti-
14 lizing readily understandable language to simplify the
15 technical nature of the disclosures.”.

16 (b) FORM OF DISCLOSURE; ADDITIONAL INFORMA-
17 TION.—Section 122(a) of the Truth in Lending Act (15
18 U.S.C. 1632(a)) is amended—

19 (1) in the second sentence, by striking “The
20 terms” and inserting “For a product that is not an
21 OBF product, the terms”; and

22 (2) by inserting after the second sentence “For
23 an OBF product, the terms ‘payment calculation
24 method’, ‘income threshold’, and ‘completion mecha-
25 nisms’ shall be disclosed more conspicuously than

1 other terms, data, or information provided in con-
2 nection with a transaction, except for information
3 relating to the identity of the creditor, and informa-
4 tion in the table referenced in section
5 128(e)(12)(B)(v). The terms ‘annual percentage
6 rate’ and ‘finance charge’ shall be disclosed more
7 conspicuously than other terms, data, or information
8 provided in such table.”.

9 (c) TRANSACTIONS OTHER THAN UNDER AN OPEN
10 END CREDIT PLAN.—Section 128(e) of the Truth in
11 Lending Act (15 U.S.C. 1638(e)) is amended by adding
12 at the end the following:

13 “(12) DISCLOSURE REQUIREMENTS FOR OUT-
14 COMES-BASED FINANCING PRODUCTS.—

15 “(A) IN GENERAL.—In addition to the dis-
16 closures required under this chapter, and in lieu
17 of the disclosure requirements in paragraphs
18 (3), (4), (5) and (6) of subsection (a), subpara-
19 graph (C) of paragraph (2), and paragraphs
20 (1), (2), and (4) of this subsection, an OBF
21 provider shall disclose the following:

22 “(i) DISCLOSURES REQUIRED IN PRI-
23 VATE EDUCATION LOAN APPLICATIONS
24 AND SOLICITATIONS.—In any application
25 for an OBF product, or a solicitation for

1 an OBF product without requiring an ap-
2 plication, the OBF provider shall disclose
3 to the OBF recipient, clearly and conspicu-
4 ously—

5 “(I) the disclosures required
6 under subclauses (I) and (II) of
7 clause (ii), including the potential
8 range of terms applicable to the OBF
9 product for each disclosure item;

10 “(II) the disclosures required
11 under subclauses (III) and (IV) of
12 clause (ii);

13 “(III) the comparison table de-
14 scribed in clause (ii)(V), using the
15 highest dollar amount or percentage
16 that the OBF provider could set
17 under the OBF payment calculation
18 method described in clause (ii)(I)
19 based on an amount financed of
20 \$10,000, or \$5,000 if the OBF pro-
21 vider only offers OBF products of this
22 type for less than \$5,000; and

23 “(IV) the disclosures required
24 under—

1 “(aa) paragraph (1)(J) (re-
2 lating to eligibility requirements);

3 “(bb) subparagraphs (L)
4 through (N) and (Q) of para-
5 graph (1) (relating to the avail-
6 ability of other potential sources
7 of information and aid);

8 “(cc) paragraph (1)(O) (re-
9 lating to the 30-day approval pe-
10 riod); and

11 “(dd) paragraph (1)(P) (re-
12 lating to self-certification).

13 “(ii) DISCLOSURES AT THE TIME OF
14 PRIVATE EDUCATION LOAN APPROVAL.—
15 Contemporaneously with the approval of an
16 OBF product application, and before the
17 loan transaction is consummated, the OBF
18 provider shall disclose to the borrower,
19 clearly and conspicuously, the following:

20 “(I) As relates to the periodic
21 payment obligation:

22 “(aa) The term ‘Payment
23 Calculation Method’ and a de-
24 scription of the method through

1 which periodic payments will be
2 calculated.

3 “(bb) The term ‘income
4 threshold’ and the income thresh-
5 old for the OBF product, fol-
6 lowed by a description that
7 states, ‘The minimum income you
8 must make to trigger a payment
9 obligation. If your income is less
10 than this income threshold, you
11 will not owe any amount for that
12 period.’.

13 “(cc) A statement that dur-
14 ing periods in which the OBF re-
15 cipient’s income is below the in-
16 come threshold—

17 “(AA) the OBF recipi-
18 ent will not owe an OBF
19 payment for that period of
20 time; and

21 “(BB) any such period
22 of non-payment will not
23 count toward the OBF max-
24 imum number of payments

1 but will count toward the
2 OBF duration.

3 “(II) As relates to various ways
4 the OBF recipient can complete the
5 obligation, which shall include (where
6 applicable):

7 “(aa) The term ‘Maximum
8 Number of Required Payments’
9 and the OBF maximum number
10 of payments, followed by a de-
11 scription that states, ‘The max-
12 imum number of payments you
13 will be required to make when
14 your income is equal to or great-
15 er than the income threshold.’

16 “(bb) The term ‘Maximum
17 Duration’ and the OBF duration,
18 followed by a description that
19 states, ‘The maximum amount of
20 time that you are required to
21 make income-determined pay-
22 ments, excluding any extensions
23 that you request.’

1 “(cc) In the case of an out-
2 outcomes-based loan, a disclosure
3 of—

4 “(AA) the applicable
5 rate of interest in effect on
6 the date of approval;

7 “(BB) whether the rate
8 of interest applicable to the
9 private education loan is
10 fixed or variable;

11 “(CC) any limitations
12 on interest rate adjustments,
13 both in terms of frequency
14 and amount, or the lack
15 thereof, if applicable; and

16 “(DD) if the rate of in-
17 terest is variable, a state-
18 ment that the varying rate
19 of interest will affect how
20 much the OBF recipient
21 must pay to complete the
22 outcomes-based loan early.

23 “(dd) In the case of an out-
24 comes-based payment agreement,
25 any payment cap, which may be

14

1 a fixed number, fixed multiple,
2 effective annual percentage rate,
3 or other mechanism.

4 “(III) The Annual Percentage
5 Rate, with a description stating that
6 the Annual Percentage Rate will vary
7 based on the consumer’s income after
8 completing school and that the con-
9 sumer should refer to the table de-
10 scribed in subclause (V) to see the
11 range of Annual Percentage Rates
12 based on different after-school income
13 scenarios.

14 “(IV) As relates to other disclo-
15 sure items:

16 “(aa) A statement that the
17 obligations of the OBF recipient
18 under the OBF product would be
19 dischargeable in a case under
20 title 11, United States Code, in
21 the same manner as a loan that
22 is not described in section
23 523(a)(8) of title 11, United
24 States Code.

1 “(bb) The disclosure re-
2 quired under paragraph (2)(J),
3 relating to available payment de-
4 ferral options.

5 “(cc) The following state-
6 ment: ‘IMPORTANT NOTICE
7 REQUIRED BY LAW: Students
8 are cautioned to consider care-
9 fully entering into this outcomes-
10 based financing product if their
11 total future payment commit-
12 ment, including any other forms
13 of education finance, may exceed
14 20 percent of their expected fu-
15 ture income. Your total future
16 obligation may exceed this per-
17 centage if you have received addi-
18 tional education financing, in-
19 cluding other outcomes-based fi-
20 nancing products, Department of
21 Education Direct or FFEL
22 Loans, or private education
23 loans.’.

24 “(dd) Applicable finance
25 charges, late fees, penalties, and

1 adjustments to principal (as ap-
2 plicable), based on borrower de-
3 faults or late payments applicable
4 to the OBF product.

5 “(ee) Fees, or the range of
6 fees, applicable to the OBF prod-
7 uct.

8 “(ff) The definition of in-
9 come to be used for purposes of
10 calculating the OBF recipient’s
11 obligation under the OBF prod-
12 uct.

13 “(gg) A statement regarding
14 whether the OBF provider in-
15 tends to engage in a process of
16 reconciliation to determine if the
17 amount paid by the OBF recipi-
18 ent for the preceding year is
19 more than, equal to, or less than
20 the OBF payments owed under
21 the OBF product, including—

22 “(AA) a description of
23 the process in which the
24 OBF recipient must partici-
25 pate for the OBF provider

1 to verify the OBF recipient's
2 income; and

3 “(BB) a description of
4 any tax records or forms
5 that the OBF recipient must
6 execute or that the OBF
7 provider intends to submit
8 to the Internal Revenue
9 Service.

10 “(V) A comparison table that—

11 “(aa) calculated for the
12 range of income scenarios de-
13 scribed in item (bb) and assum-
14 ing the OBF recipient earns at
15 that income level for the duration
16 of the contract, discloses—

17 “(AA) the total dollar
18 amount of payments;

19 “(BB) the number of
20 OBF payments;

21 “(CC) the finance
22 charge; and

23 “(DD) the annual per-
24 centage rate, with the sce-
25 nario where an OBF recipi-

1 ent never makes any pay-
2 ments shown as ‘-100% (no
3 payments)’;

4 “(bb) with respect to the
5 disclosures required under item
6 (aa), includes, at a minimum, the
7 obligations for the OBF recipi-
8 ent—

9 “(AA) with no income;

10 “(BB) with income at
11 the income threshold; and

12 “(CC) for various in-
13 come scenarios, including, at
14 a minimum, calculations at
15 annual incomes of \$40,000,
16 \$60,000, \$80,000,
17 \$100,000, \$125,000,
18 \$150,000, \$175,000, and
19 \$200,000 (or in lieu of these
20 income scenarios, other in-
21 come scenarios that the Bu-
22 reau specifies by rule); and

23 “(cc) includes the following
24 statement: ‘This table assumes
25 you have the same income over

1 the entire duration of your OBF
2 product. It does not take into ac-
3 count changes in income. Your
4 income will likely change over
5 time.’.

6 “(VI) The disclosures required
7 under paragraph (2)(L) (relating to
8 the 30-day approval period) and sub-
9 paragraphs (M) and (N) of paragraph
10 (2) (relating to the availability of
11 other potential sources of aid).

12 “(iii) DISCLOSURES AT THE TIME OF
13 PRIVATE EDUCATION LOAN CONSUMMA-
14 TION.—Contemporaneously with the con-
15 summation of an OBF product, an OBF
16 provider shall make to the OBF recipient
17 each of the disclosures described in—

18 “(I) subclauses (I) through (IV)
19 of clause (ii) (and in the case of an
20 outcomes-based loan with a variable
21 rate of interest, adjusted, as nec-
22 essary, for the rate of interest in ef-
23 fect on the date of consummation,
24 based on the index used);

1 “(II) subparagraphs (M) and (N)
2 of paragraph (2) (relating to the
3 availability of other potential sources
4 of aid); and

5 “(III) paragraph (7) (relating to
6 right to cancel).

7 “(B) RULEMAKING.—The Bureau may
8 prescribe, by rule, such other information as
9 necessary or appropriate that shall be disclosed
10 for consumers to make informed borrowing de-
11 cisions related to OBF products.”.

12 **SEC. 202. ADVERTISING OF OBF PRODUCTS.**

13 (a) ADVERTISING OF DOWNPAYMENTS AND INSTALL-
14 MENTS.—Section 142 of the Truth in Lending Act (15
15 U.S.C. 1662) is amended—

16 (1) in the matter preceding paragraph (1), by
17 striking “state” and inserting “state—”;

18 (2) in paragraph (1), by striking the period and
19 inserting a semicolon;

20 (3) in paragraph (2), by striking the period and
21 inserting “; and”; and

22 (4) by adding at the end the following:

23 “(3) with respect to an OBF product, that a
24 specific OBF payment calculation method, OBF du-
25 ration, OBF maximum number of payments, or in-

1 come threshold can be arranged, unless the OBF
2 provider usually and customarily arranges OBF
3 products pursuant to the terms so advertised.”.

4 (b) ADVERTISING OF A CREDIT OTHER THAN OPEN
5 END PLANS.—Section 144 of the Truth in Lending Act
6 (15 U.S.C. 1664) is amended by adding at the end the
7 following:

8 “(f) OUTCOMES-BASED FINANCING PRODUCTS.—

9 “(1) DEFINITIONS.—In this subsection, the
10 terms ‘OBF product’, ‘income threshold’, ‘OBF du-
11 ration’, ‘OBF maximum number of payments’, and
12 ‘OBF payment calculation method’ have the mean-
13 ings given those terms in subsection 1650(h).

14 “(2) APPLICATION.—This subsection shall
15 apply to any advertisement of any OBF product sub-
16 ject to the provisions of this chapter.

17 “(3) DISCLOSURE OF KEY TERMS.—If any ad-
18 vertisement to which this section applies states the
19 OBF payment calculation method, OBF duration,
20 OBF maximum number of payments, income thresh-
21 old, or amounts of payments under an OBF product,
22 the advertisement shall include each of the following:

23 “(A) The OBF payment calculation meth-
24 od.

25 “(B) The OBF duration.

1 “(C) The OBF maximum number of pay-
2 ments.

3 “(D) The income threshold.”.

4 **TITLE III—CONSUMER PROTEC-**
5 **TIONS FOR OBF PRODUCTS**

6 **SEC. 301. CONSUMER PROTECTIONS.**

7 (a) PREVENTING UNFAIR AND DECEPTIVE PRIVATE
8 EDUCATIONAL LENDING PRACTICES AND ELIMINATING
9 CONFLICTS OF INTEREST.—Section 140 of the Truth in
10 Lending Act (15 U.S.C. 1650) is amended—

11 (1) in subsection (a)(8)—

12 (A) in subparagraph (A)(ii), by striking
13 “and” at the end; and

14 (B) by adding at the end the following:

15 “(C) includes an Outcomes-Based Financ-
16 ing Product as defined in subsection (h); and”;
17 and

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

19 “(h) DEFINITIONS RELATING TO OUTCOMES-BASED
20 FINANCING PRODUCTS.—In this chapter:

21 “(1) AMOUNT FINANCED.—The term ‘amount
22 financed’ means, with respect to an OBF product,
23 the amount financed as calculated pursuant to sec-
24 tion 1026.18(b) of title 12, Code of Federal Regula-
25 tions.

1 “(2) INCOME THRESHOLD.—The term ‘income
2 threshold’ means a fixed dollar amount that is the
3 minimum income that an OBF recipient is required
4 to earn in a payment period before the OBF recipi-
5 ent is required to make a payment on an OBF prod-
6 uct for such payment period.

7 “(3) OBF DURATION.—

8 “(A) IN GENERAL.—The term ‘OBF dura-
9 tion’—

10 “(i) means the maximum time during
11 which a consumer could remain obligated
12 on the OBF product, except for any past
13 due amounts owed to the OBF provider;
14 and

15 “(ii) does not include—

16 “(I) any period of in-school
17 deferment;

18 “(II) any grace or transition pe-
19 riod; and

20 “(III) any period for which the
21 OBF recipient’s income is equal to or
22 above the income threshold but the
23 obligation is suspended at the request
24 of the consumer (including a period of

1 payment relief pause, deferment, or
2 forbearance).

3 “(B) RECONCILIATION PROCESS.—If an
4 OBF product requires a reconciliation process
5 under section 128(e)(12)(A)(ii)(IV)(gg), any
6 payment period that has not yet been reconciled
7 shall provisionally be applied to the OBF dura-
8 tion until such time as the payment period is
9 reconciled, provided that if the OBF recipient
10 has reached the OBF duration, including any
11 provisional payment periods, the OBF recipient
12 shall not accrue any additional obligations ex-
13 cept those that come from any remaining rec-
14 onciliation processes.

15 “(4) OBF PRODUCT.—The term ‘OBF product’
16 means a financial product—

17 “(A) under which—

18 “(i) the OBF provider credits or ad-
19 vances financing to the OBF recipient or
20 to a third party on behalf of the OBF re-
21 cipient; or

22 “(ii) if the OBF provider is a mer-
23 chant financing the sale of goods or serv-
24 ices to the OBF recipient via the financial
25 product, the OBF provider credits the

1 amount financed toward the purchase of
2 such goods or services;

3 “(B) under which the OBF recipient is ob-
4 ligated to make periodic OBF payments (if any
5 become due) to the OBF provider in the future,
6 calculated based upon the OBF recipient’s fu-
7 ture income (using the Payment Calculation
8 Method defined in this subsection, as specified
9 in the contract);

10 “(C) under which the OBF recipient’s obli-
11 gation to make payments (if any become due)
12 to the OBF provider is conditional on the OBF
13 recipient’s income exceeding the income thresh-
14 old set in the OBF product;

15 “(D) under which there is an OBF dura-
16 tion after which the obligation is complete re-
17 gardless of how much has been paid, as long as
18 the consumer has paid any prior amounts due;

19 “(E) under which the OBF provider and
20 the OBF recipient enter into an agreement
21 that, as of the date of the product, includes
22 each element described in subparagraphs (A)
23 through (D);

1 “(F) that is not made, insured, or guaran-
2 teed under title IV of the Higher Education Act
3 of 1965 (20 U.S.C. 1070 et seq.);

4 “(G) that is not open end credit or any
5 loan that is secured by real property or a dwell-
6 ing; and

7 “(H) under which the amounts advanced
8 under subparagraph (A) are for—

9 “(i) costs associated with a postsec-
10 ondary training program or any other pro-
11 gram designed to increase the human cap-
12 ital, employability, or earning potential of
13 the OBF recipient (not limited to pro-
14 grams eligible to participate under title IV
15 of the Higher Education Act of 1965 (20
16 U.S.C. 1070 et seq.);

17 “(ii) any personal expenses (such as
18 books, supplies, transportation, and living
19 costs) incurred by the OBF recipient while
20 enrolled in a program described in clause
21 (i);

22 “(iii) any other cost or expense that is
23 a qualified higher education expense, as
24 defined in section 529(e)(3)(A) of the In-
25 ternal Revenue Code of 1986; and

1 “(iv) the refinancing of loans or OBF
2 products used for the purposes described
3 in clauses (i), (ii), or (iii), and without re-
4 spect to whether the OBF product is pro-
5 vided by the educational institution that
6 the OBF recipient attends.

7 “(5) OBF MAXIMUM NUMBER OF PAYMENTS.—
8 The term ‘OBF maximum number of payments’—

9 “(A) means the maximum number of OBF
10 payments that an OBF recipient could be re-
11 quired to make under the terms of the OBF
12 product; and

13 “(B) does not include periods of payment
14 relief pause.

15 “(6) OBF PAYMENT.—The term ‘OBF pay-
16 ment’—

17 “(A) means the amount of an OBF recipi-
18 ent’s periodic payment obligation, under the
19 terms of the OBF product, incurred during any
20 payment period for which the OBF recipient’s
21 income is greater than the income threshold;
22 and

23 “(B) is calculated using the OBF payment
24 calculation method.

1 “(7) OBF PAYMENT CALCULATION METHOD.—
2 ‘OBF payment calculation method’ means the mech-
3 anism, formula, percentage, dollar figure, or other
4 means of calculating an OBF recipient’s payment
5 obligation, based on the OBF recipient’s income,
6 under the terms of the OBF product.

7 “(8) OBF PROVIDER.—The term ‘OBF pro-
8 vider’ means a person that provides financing to an
9 OBF recipient pursuant to the terms of an OBF
10 product, or, in the case of a person who is a mer-
11 chant financing the sale of goods or services to the
12 OBF recipient, the merchant.

13 “(9) OBF RECIPIENT.—The term ‘OBF recipi-
14 ent’ means a consumer that receives financing from
15 an OBF provider under an OBF product.

16 “(10) OUTCOMES-BASED LOAN.—The term
17 ‘outcomes-based loan’ means an OBF product that
18 uses promissory notes, loan agreements, or an in-
19 stallment sales contract to effectuate the loan and
20 provide for the repayment of a principal balance
21 with a fixed or variable interest rate, with such addi-
22 tional terms as necessary (such as forgiveness of
23 outstanding balance after a defined period) to meet
24 the requirements of an OBF product.

1 “(11) OUTCOMES-BASED PAYMENT AGREE-
2 MENT.—An ‘outcomes-based payment agreement’ in-
3 cludes all OBF products that are not outcomes-
4 based loans.

5 “(12) PAYMENT RELIEF PAUSE.—The term
6 ‘payment relief pause’ means a period of time that—

7 “(A) is requested by the OBF recipient
8 during which any payment obligation the OBF
9 recipient would have is suspended; and

10 “(B) does not count toward an OBF re-
11 cipient’s OBF duration or maximum number of
12 payments.

13 “(13) POVERTY LINE.—The term ‘poverty line’
14 has the meaning given the term in section 673 of the
15 Community Services Block Grant Act (42 U.S.C.
16 9902).

17 “(14) CONSUMER.—The term ‘consumer’
18 means a natural person to whom an OBF product
19 is offered or extended for personal, family, or house-
20 hold purposes.

21 “(i) ADDITIONAL CONSUMER PROTECTIONS RELAT-
22 ING TO OBF PRODUCTS.—

23 “(1) PROHIBITION ON ACCELERATION; TREAT-
24 MENT OF EARLY COMPLETION MECHANISMS.—

25 “(A) LIMITS ON ACCELERATION.—

1 “(i) OUTCOMES-BASED PAYMENT
2 AGREEMENT PRODUCTS.—An OBF pro-
3 vider shall not include any mechanism in
4 an outcomes-based payment agreement
5 product that accelerates an amount against
6 an OBF recipient (or otherwise liquidates
7 a future payment stream) in the event of
8 a delinquency or default under the OBF
9 product.

10 “(ii) OUTCOMES-BASED LOAN PROD-
11 UCTS.—An OBF provider shall not accel-
12 erate (or otherwise liquidate a future pay-
13 ment stream) an outcomes-based loan
14 product in the event of a delinquency or
15 default under the outcomes-based loan, ex-
16 cept the OBF provider may accelerate an
17 outcomes-based loan in cases where the
18 OBF recipient has failed to make a re-
19 quired payment for a continuous period of
20 not less than 180 days.

21 “(B) NO IMPACT ON EARLY COMPLETION
22 MECHANISMS.—Nothing in this subsection shall
23 be interpreted to prevent an OBF recipient
24 from using any available completion mecha-
25 nisms of an OBF product so long as the mecha-

1 nism is optional and within the OBF recipient's
2 control.

3 “(2) MONTHLY PAYMENT AFFORDABILITY FOR
4 OBF PRODUCTS.—

5 “(A) MAXIMUM MONTHLY PAYMENT OBLI-
6 GATION.—Each OBF product shall specify the
7 OBF payment calculation method applicable to
8 the OBF product. An OBF provider shall not
9 enter into an OBF product with an OBF recipi-
10 ent if the OBF recipient would be committing
11 to pay more than 20 percent of the OBF recipi-
12 ent's income at any time during the OBF dura-
13 tion, based on information available to the OBF
14 provider at the time of the projection, inclusive
15 of any payment obligations that the OBF pro-
16 vider knows will arise in the future for other
17 OBF products upon which the consumer is obli-
18 gated at the time of the projection. The OBF
19 provider shall confirm a recipient's OBF liabil-
20 ities through a verifiable third-party source. At
21 a minimum, the OBF provider shall confirm
22 such liabilities using information maintained by
23 a nationwide consumer reporting agency, as de-
24 fined in section 603(f) of the Fair Credit Re-
25 porting Act (15 U.S.C. 1681a(f)). While doing

1 so is sufficient for meeting the requirement
2 under this subparagraph, nothing in this sub-
3 paragraph shall prohibit an OBF provider from
4 using other sources to provide additional
5 verification.

6 “(B) CALCULATION METHODOLOGY AND
7 REQUIREMENTS.—

8 “(i) IN GENERAL.—For the purposes
9 of calculating the portion of an OBF re-
10 cipient’s future income that would be con-
11 sumed by the OBF product for which the
12 OBF recipient has applied and all other
13 OBF products of the OBF recipient as of
14 the date of the agreement, the OBF pro-
15 vider shall calculate the aggregate future
16 burden—

17 “(I) in any case where the in-
18 come threshold of the OBF product is
19 less than the maximum described in
20 clause (ii), at hypothetical future in-
21 come levels ranging from such income
22 threshold to such maximum, in incre-
23 ments of \$10,000; and

24 “(II) in any case where the in-
25 come threshold of the OBF product is

1 equal to or greater than such max-
2 imum, at such income threshold.

3 “(ii) MAXIMUM.—The maximum de-
4 scribed in this clause shall be the greater
5 of—

6 “(I)(aa) for fiscal year 2025,
7 \$70,000; or

8 “(bb) for fiscal year 2026 and
9 each subsequent fiscal year, the max-
10 imum for the preceding fiscal year—

11 “(AA) increased by the per-
12 centage increase in the Consumer
13 Price Index for All Urban Con-
14 sumers published by the Depart-
15 ment of Labor; and

16 “(BB) rounded to the near-
17 est \$1,000; or

18 “(II) in the case of an OBF re-
19 cipient who has (as of the date of the
20 outcomes-based payment agreement),
21 or has applied for, an OBF product
22 that uses a schedule of income per-
23 centages or a schedule of fixed
24 amounts as the OBF payment cal-
25 culation method, the highest income

1 level referenced by a schedule for any
2 such OBF product.

3 “(iii) CALCULATION.—

4 “(I) IN GENERAL.—The terms of
5 an OBF product for which a con-
6 sumer has applied cannot cause the
7 OBF recipient’s aggregate future bur-
8 den (defined as the total amounts ex-
9 pected to be due under all OBF prod-
10 ucts of the OBF recipient as of the
11 date of the agreement, and all OBF
12 products for which the consumer is
13 applying) to exceed the limit described
14 in subparagraph (A) at any of the in-
15 come increments described in clause
16 (ii).

17 “(II) CALCULATION METHOD.—

18 For the purpose of calculating the
19 percentage burden of an OBF product
20 at a given future income level, the
21 OBF provider shall calculate the an-
22 nual payment obligation the OBF re-
23 cipient would incur at that income
24 level (using the most affordable option
25 that would yield the lowest monthly

1 payments that would be available to
2 the OBF recipient at such income
3 level under that OBF product) and di-
4 vide that annual payment obligation
5 by that income level.

6 “(C) PROTECTIONS DURING PERIODS OF
7 LOW EARNINGS.—

8 “(i) IN GENERAL.—The OBF product
9 shall provide that when an OBF recipient
10 has an income that is below the income
11 threshold of the OBF product, the OBF
12 periodic payment obligation is \$0.

13 “(ii) THRESHOLD AMOUNT.—The in-
14 come threshold for an OBF product (ex-
15 pressed as an annual amount) shall be not
16 less than 250 percent of the Federal pov-
17 erty guidelines for a single person in the
18 continental U.S. (for the year in which the
19 calculation is performed).

20 “(3) ENSURING APPROPRIATE RISK SHARING
21 FOR OBF PRODUCTS.—

22 “(A) IN GENERAL.—An OBF provider may
23 not contract for terms of an OBF product that
24 would result in the OBF recipient having in-
25 come that is less than or equal to 350 percent

1 of the Federal poverty guidelines for a single
2 person in the continental United States for the
3 OBF duration being required to make a stream
4 of OBF payments that would yield an effective
5 annual percentage rate of more than 8 percent,
6 plus the high yield of the 10-year United States
7 Constant Maturity Treasury Notes auctioned at
8 the final auction held before the current cal-
9 endar year in which an OBF product offering
10 is made.

11 “(B) CALCULATION.—An OBF provider
12 shall calculate for an OBF recipient the effec-
13 tive annual percentage rate under subparagraph
14 (A) by determining the poverty line at the time
15 of origination of the OBF product and assum-
16 ing such amount is fixed through the OBF du-
17 ration.

18 “(C) DURATION.—For the purposes of de-
19 termining OBF duration under subparagraph
20 (A), an OBF provider shall assume the OBF
21 duration started after a period equal to the ex-
22 pected length of the program for which a con-
23 sumer is enrolling.

24 “(4) LIMITS ON DURATION OF AN OBF PROD-
25 UCT OBLIGATION.—

1 “(A) OBF MAXIMUM NUMBER OF PAY-
2 MENTS.—The OBF maximum number of pay-
3 ments shall not exceed 240 monthly payments.

4 “(B) OBF DURATION.—The OBF dura-
5 tion shall not exceed 360 months (except in the
6 case of an extension requested by the OBF re-
7 cipient).

8 “(5) NON-INTERFERENCE.—An OBF product
9 shall not be construed to give the contract holder
10 any rights over an individual’s actions other than as
11 provided in this Act.

12 “(6) DISCHARGE PROTECTIONS FOR OBF RE-
13 CIPIENTS.—

14 “(A) PERMANENT AND TOTAL DIS-
15 ABILITY.—In any case where an OBF recipient
16 would be deemed totally and permanently dis-
17 abled for purposes of benefits administered by
18 the Department of Veterans Affairs or the So-
19 cial Security Administration (determined with-
20 out regard to whether the recipient receives
21 such benefits), all further obligations of the
22 OBF recipient under the OBF product shall
23 terminate, except those accruing before the date
24 such a determination would apply.

1 “(B) DEATH.—Upon the death of an OBF
2 recipient, all further obligations of the OBF re-
3 cipient under the OBF product shall terminate,
4 except those obligations accruing before the
5 OBF recipient’s date of death.

6 “(7) LIMITATION ON AMOUNTS TREATED AS IN-
7 COME UNDER OBF PRODUCTS.—

8 “(A) IN GENERAL.—For purposes of calcu-
9 lating the obligation of an OBF recipient to
10 make OBF payments under an OBF product,
11 the income of the OBF recipient shall not in-
12 clude—

13 “(i) the income of any child or de-
14 pendent of the OBF recipient;

15 “(ii) any item of income which is not
16 included in the gross income (as defined in
17 section 61(a) of the Internal Revenue Code
18 of 1986) of the OBF recipient;

19 “(iii) any amount received from an in-
20 dividual retirement plan (as defined in sec-
21 tion 7701 of the Internal Revenue Code of
22 1986), a pension, or an annuity; or

23 “(iv) any Social Security benefit (as
24 defined in section 86 of the Internal Rev-
25 enue Code of 1986).

1 “(B) ESTIMATING INCOME.—

2 “(i) IN GENERAL.—An OBF provider
3 may reasonably require that an OBF re-
4 cipient provide documentation of income,
5 including through pay stubs, tax tran-
6 scripts, or the signing of relevant IRS
7 forms that provide the OBF provider with
8 access to the OBF recipient’s tax tran-
9 scripts. In the event that an OBF recipient
10 fails to provide income documentation as
11 reasonably required by the OBF product,
12 an OBF provider may assign an amount of
13 income to the OBF recipient and compute
14 the monthly payment amount for the OBF
15 recipient by any of the following methods,
16 to the extent disclosed in the OBF prod-
17 uct:

18 “(I) Assigning an income amount
19 obtained from a reasonably reliable
20 third party or a consumer reporting
21 agency, as defined in section 603(f) of
22 the Fair Credit Reporting Act (15
23 U.S.C. 1681a(f)).

24 “(II) If the OBF recipient pre-
25 viously provided income documenta-

1 sonably reliable publicly available
2 data sources; or

3 “(bb) the median income of
4 individuals who attended the
5 same or a reasonably comparable
6 covered educational program or
7 course of study, as determined by
8 information published by the Bu-
9 reau of Labor Statistics or other
10 reasonably reliable publicly avail-
11 able data sources.

12 “(V) Assigning an income equal
13 to the income threshold of the OBF
14 product (and adjusting as needed if
15 the threshold adjusts over time).

16 “(ii) NOTIFICATION.—If an OBF pro-
17 vider assigns an income to an OBF recipi-
18 ent, pursuant to clause (i), the OBF pro-
19 vider—

20 “(I) shall notify the OBF recipi-
21 ent in the monthly billing statement,
22 and in each billing statement there-
23 after while the assigned income re-
24 mains applicable to the OBF recipi-
25 ent—

1 “(aa) that income has been
2 assigned; and

3 “(bb) of the rights of the
4 OBF recipient under this section;

5 “(II) in any tax year for which
6 the OBF provider has made an as-
7 sumption about an OBF recipient’s
8 income using any of the methods de-
9 scribed in clause (i) and if the OBF
10 recipient has authorized ongoing ac-
11 cess to the OBF recipient’s return in-
12 formation under section 401, shall re-
13 quest such information in each year of
14 the payment term;

15 “(III) if the OBF recipient does
16 provide income information as reason-
17 ably required by the OBF product
18 within 1 year of the date on which the
19 OBF provider notified the OBF re-
20 cipient that assigned income shall be
21 applied to the OBF product or if the
22 OBF provider receives updated in-
23 come information through return in-
24 formation authorized under section
25 401, then, not later than the date that

1 is 15 days after the date on which the
2 OBF provider receives such informa-
3 tion, shall—

4 “(aa) update each prior in-
5 stance in which assigned income
6 was applied, using such new in-
7 come information; and

8 “(bb) reconcile any dif-
9 ference in amounts owed by the
10 OBF recipient based on those
11 updates to prior income; and

12 “(IV) if the OBF recipient pro-
13 vides income information more than 1
14 year after the OBF provider first as-
15 signed income to the OBF recipient,
16 may, but shall not be obligated to, up-
17 date each prior instance in which as-
18 signed income was applied using the
19 income information provided by the
20 OBF recipient.

21 “(iii) RECORDS RETENTION.—An
22 OBF provider that assigns income to an
23 OBF recipient shall retain all applicable
24 records relating to the method and data
25 sources used to make such estimation for

1 a period of 3 years after the date by which
2 there no longer exists a contractual rela-
3 tionship between the OBF provider and
4 the OBF recipient for that OBF product.

5 “(8) NO ASSIGNMENT OF WAGES.—

6 “(A) IN GENERAL.—An OBF provider may
7 not take an assignment of earnings or wages of
8 the OBF recipient as payment or as security
9 for payment of a debt arising out of an OBF
10 product. An assignment of earnings in violation
11 of this paragraph is unenforceable by the as-
12 signee of the earnings and revocable by the con-
13 sumer. This paragraph does not limit the ability
14 of the OBF recipient to voluntarily elect to use
15 a revocable payroll deduction mechanism, such
16 as one offered by an employer or payroll pro-
17 vider, provided that the OBF recipient is not
18 assigning the OBF recipient’s earnings or
19 wages.

20 “(B) DEEMED LOAN.—A sale of unpaid
21 earnings made in consideration of the payment
22 of money to or for the account of the seller of
23 the earnings is deemed to be a loan to the seller
24 secured by an assignment of earnings.”

1 “(j) TREATMENT OF OUTCOMES-BASED FINANCING
2 PRODUCTS UNDER OTHER LAWS.—

3 “(1) DEFINITION.—In this subsection, the term
4 ‘State law’—

5 “(A) means—

6 “(i) any law, decision, rule, regulation,
7 or other action having the effect of a law
8 of any State or any political subdivision of
9 a State, or any agency or instrumentality
10 of a State or political subdivision of a
11 State; and

12 “(ii) any law of the United States ap-
13 plicable only to the District of Columbia;
14 and

15 “(B) does not impact the use of such term
16 in section 1026.28 of title 12, Code of Federal
17 Regulations.

18 “(2) INSURANCE AND WAGERING.—An OBF
19 product shall not be treated as a contract for insur-
20 ance, or as a betting or wagering contract, under
21 any Federal or State law or State constitutional pro-
22 vision.

23 “(3) ASSIGNMENT OF FUTURE WAGES FOR OBF
24 PRODUCTS.—An OBF product shall be a valid, bind-
25 ing, and enforceable contract, notwithstanding any

1 State law or State constitutional provision limiting
2 or otherwise regulating assignments of future wages
3 or other income.

4 “(4) PREEMPTION OF STATE LAWS WITH RE-
5 SPECT TO SUBSTANTIALLY EQUAL PAYMENTS.—A
6 State law or State constitutional provision requiring
7 that payments on a debt, credit, loan, installment
8 sale, or other financial instrument be in equal or
9 substantially equal amounts shall not apply to an
10 OBF product.

11 “(5) PREEMPTION OF STATE LAWS WITH RE-
12 SPECT TO ABILITY TO REPAY.—

13 “(A) IN GENERAL.—A State law or State
14 constitutional provision imposing requirements
15 relating to assessing whether a consumer has
16 the ability to repay a loan, credit, debt, install-
17 ment sale, or other financial obligation shall not
18 apply to an OBF product.

19 “(B) EXCEPTIONS.—

20 “(i) LEGISLATION THAT REFERENCES
21 THIS SECTION.—For purposes of the af-
22 fordability protections specified in subpara-
23 graph (C), State legislation that specifi-
24 cally and explicitly addresses OBF prod-
25 ucts by reference to this section and im-

1 poses limits that would apply to OBF
2 products issued in the jurisdiction of that
3 State shall not be subject to preemption
4 under subparagraph (A).

5 “(ii) PRIOR ENACTED LEGISLATION.—
6 If, as of the date of enactment of this sec-
7 tion, a State has previously enacted legisla-
8 tion or issued a rule specifically ref-
9 erencing ‘income share agreements’ and
10 specifying limits for income share agree-
11 ments consistent with clauses (i) and (ii)
12 of subparagraph (C), such limits are not
13 subject to preemption under subparagraph
14 (A).

15 “(C) AFFORDABILITY PROTECTIONS.—The
16 affordability protections subject to State speci-
17 fication under subparagraph (A) include:

18 “(i) the percentage specified in sub-
19 section (i)(2)(A) setting the maximum per-
20 centage of income required for monthly
21 payments under OBF products, including
22 what types of obligations are included in
23 such limit (but not altering the method-
24 ology used to apply such limit);

1 “(ii) the percentage specified in sub-
2 section (i)(2)(C) providing an alternative
3 minimum required income threshold (but
4 not altering other aspects of the calcula-
5 tion used to determine the minimum in-
6 come threshold).

7 “(6) PREEMPTION OF STATE LAWS WITH RE-
8 SPECT TO AMOUNT OF FINANCING, TIMING OF PAY-
9 MENTS, AND LENGTH OF TERM.—

10 “(A) IN GENERAL.—A State law or State
11 constitutional provision imposing requirements
12 relating to limits on amount of financing, tim-
13 ing of payments, or when payments must start
14 for a loan, credit, debt, installment sale, or
15 other financial obligation shall not apply to an
16 OBF product.

17 “(B) EXCEPTIONS.—

18 “(i) LEGISLATION THAT REFERENCES
19 THIS SECTION.—For purposes of the pay-
20 ment and duration protections specified in
21 subparagraph (C), State legislation that
22 specifically and explicitly addresses OBF
23 products by reference to this section and
24 imposes limits that would apply to OBF
25 products issued in the jurisdiction of that

1 State shall not be subject to preemption
2 under subparagraph (A).

3 “(ii) PRIOR ENACTED LEGISLATION.—

4 If, as of the date of enactment of this sec-
5 tion, a State has previously enacted legisla-
6 tion or issued a rule specifically ref-
7 erencing ‘income share agreements’ and
8 specifying limits for income share agree-
9 ments consistent with clauses (i) and (ii)
10 of subparagraph (C), such limits are not
11 subject to preemption under subparagraph
12 (A).

13 “(C) PAYMENT AND DURATION PROTEC-
14 TIONS.—The payment and duration protections
15 subject to State specification under subpara-
16 graph (A) include:

17 “(i) the number specified in sub-
18 section (i)(4)(A) setting the maximum
19 number of OBF payments for an OBF
20 product (but not altering the definitions of
21 OBF payment);

22 “(ii) the number specified in sub-
23 section (i)(4)(B) setting the maximum
24 OBF duration for an OBF product (but

1 not altering the definition of an OBF du-
2 ration).

3 “(7) PREPAYMENT.—

4 “(A) IN GENERAL.—A Federal law or
5 State law or State constitutional provision im-
6 posing requirements or limitations relating to
7 prepayment or fees or charges related to pre-
8 payment, including as described in subsection
9 (e), shall not apply to an outcomes-based pay-
10 ment agreement.

11 “(B) EXCEPTIONS.—

12 “(i) LEGISLATION THAT REFERENCES
13 THIS SECTION.—State legislation shall not
14 be subject to preemption under subpara-
15 graph (A) if the legislation—

16 “(I) specifically and explicitly ad-
17 dresses OBF products by reference to
18 this section; and

19 “(II) requires that outcomes-
20 based payment agreement products
21 include a means through which an
22 outcomes-based payment agreement
23 recipient can complete the outcomes-
24 based payment agreement obligation
25 by paying an amount equal to the

1 amount financed and an earned fi-
2 nance charge, with the earned finance
3 charge equal to the finance charge
4 that would have been earned by the
5 outcomes-based payment agreement
6 provider applying a maximum annual
7 percentage rate (which shall be dis-
8 closed by the outcomes-based payment
9 agreement provider pursuant to sec-
10 tion 128(e)(12)(A)(ii)(III)) to the
11 amount financed, and calculated as of
12 the current date.

13 “(ii) PRIOR ENACTED LEGISLATION.—
14 If, as of the date of enactment of this sec-
15 tion, a State has previously enacted legisla-
16 tion or issued a rule specifically ref-
17 erencing ‘income share agreements’ and
18 specifying limits for income share agree-
19 ments consistent with those described in
20 this paragraph, such limits are not subject
21 to preemption under subparagraph (A).

22 “(8) APPLICATION OF USURY LIMITS.—

23 “(A) IN GENERAL.—A State law or State
24 constitutional provision imposing requirements
25 or limitations relating to the rate or amount of

1 interest, finance charges, or other charges
2 which may be charged, taken, received, or re-
3 served, shall not apply to an OBF product.

4 “(B) EXCEPTIONS.—

5 “(i) LEGISLATION THAT REFERENCES
6 THIS SECTION.—State legislation shall not
7 be subject to preemption under subpara-
8 graph (A) if the legislation—

9 “(I) specifically and explicitly ad-
10 dresses OBF products by reference to
11 this section; and

12 “(II) imposes its own limits with
13 respect to the rate or amount of inter-
14 est, finance charges, or other charges
15 that may be charged, taken, received,
16 or reserved that would apply to OBF
17 products issued in the jurisdiction of
18 that State.

19 “(ii) PRIOR ENACTED LEGISLATION.—

20 If, as of the date of enactment of this sec-
21 tion, a State has previously enacted legisla-
22 tion or issued a rule specifically ref-
23 erencing ‘income share agreements’ and
24 specifying limits for income share agree-
25 ments consistent with those described in

1 this paragraph, such limits are not subject
2 to preemption under subparagraph (A).

3 “(9) STATE SPECIFICATION OF RISK SHARING
4 LIMITS.—For the protections relating to risk sharing
5 specified in subparagraph (B), a State may enact
6 legislation that specifically and explicitly addresses
7 OBF products and imposes its own limits that would
8 apply to OBF products issued in the jurisdiction of
9 that State that include the income level and associ-
10 ated annual percentage rate limit specified in para-
11 graph (i)(3), including specifying additional tiers of
12 income levels and limits as desired (but not altering
13 the methodology used to apply such limits under this
14 section).”.

15 **SEC. 302. TREATMENT UNDER BANKRUPTCY LAWS.**

16 Section 523(a)(8) of title 11, United States Code, is
17 amended, in the matter preceding subparagraph (A), by
18 striking “for—” and inserting “for, other than funds pro-
19 vided as part of an OBF product (as defined in section
20 140(h) of the Truth in Lending Act (15 U.S.C.
21 1650(h))—”.

1 **TITLE IV—OTHER CLARIFICA-**
2 **TIONS TO SUPPORT OBF**
3 **PRODUCTS**

4 **SEC. 401. CONSENT TO CONTINUING RELEASE OF TAX-**
5 **PAYER INFORMATION UNDER OBF PROD-**
6 **UCTS.**

7 (a) IN GENERAL.—Not later than 180 days after the
8 date of enactment of this Act, the Secretary of the Treas-
9 ury shall modify Treasury regulations and guidance to
10 provide for continuing consent (via hand signature and
11 electronic signature) to disclosure of an individual’s tax
12 return information to an OBF provider (or the OBF pro-
13 vider’s successor in interest) under an OBF product, but
14 only for periods relevant to, and only to the extent the
15 Secretary determines is necessary and appropriate in car-
16 rying out the terms of, such OBF product.

17 (b) DEFINITIONS.—In this section, the terms “OBF
18 product” and “OBF provider” have the meanings given
19 such terms in subsection (h) of section 140 of the Truth
20 in Lending Act (15 U.S.C. 1650(h)), as added by this Act.

21 **SEC. 402. AMENDMENTS TO THE HIGHER EDUCATION ACT**
22 **OF 1965.**

23 The Higher Education Act of 1965 (20 U.S.C. 1001
24 et seq.) is amended as follows:

1 (1) Section 487(d)(1)(D) (20 U.S.C.
2 1094(d)(1)(D)) is amended—

3 (A) in clause (ii), by striking “and” at the
4 end;

5 (B) in clause (iii), by inserting “and” after
6 the semicolon; and

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

8 “(iv) in the case of an OBF product
9 (as such term is defined in subsection (h)
10 of section 140 of the Truth in Lending Act
11 (15 U.S.C. 1650(h))) made by a propri-
12 etary institution of higher education, only
13 the amount of OBF payments (as defined
14 in such subsection) received during the ap-
15 plicable institutional fiscal year, to the ex-
16 tent the amount of such payments on the
17 OBF product does not exceed the amount
18 financed under such OBF product;”.

19 (2) Section 153(a) (20 U.S.C. 1019b(a)) is
20 amended—

21 (A) in paragraph (1), by adding at the end
22 the following:

23 “(C) ADDITIONAL INFORMATION FOR OBF
24 PRODUCTS.—

1 “(dd) The average financed
2 amounts provided by the OBF
3 provider to students who—

4 “(AA) graduated from
5 such institution in the pre-
6 ceding year with certificates,
7 undergraduate degrees,
8 graduate degrees, and pro-
9 fessional degrees, as applica-
10 ble; and

11 “(BB) obtained an
12 OBF product of such type
13 from the OBF provider for
14 the preceding year.

15 “(ee) The consequences for
16 the OBF recipient for defaulting
17 on an OBF product.

18 “(ff) Contact information
19 for the OBF provider.

20 “(gg) Other information
21 suggested by the persons and en-
22 tities with whom the Secretary
23 has consulted under subclause
24 (I).

1 “(iii) DEFINITIONS.—In this subpara-
2 graph the terms ‘OBF product’ and ‘OBF
3 provider’ have the meanings given such
4 terms in subsection (h) of section 140 of
5 the Truth in Lending Act (15 U.S.C.
6 1650(h)).”; and
7 (B) in paragraph (2)—
8 (i) in subparagraph (A)(ii), by strik-
9 ing “the” and inserting “a” before “model
10 disclosure form”;
11 (ii) in subparagraph (B)—
12 (I) in the matter preceding clause
13 (i)—
14 (aa) by striking “a” before
15 “model disclosure”; and
16 (bb) by striking “form that”
17 and inserting “forms that”; and
18 (II) in clause (ii), by inserting
19 “(or in the case of an OBF product
20 (as defined in subsection (h) of sec-
21 tion 140 of the Truth in Lending Act
22 (15 U.S.C. 1650(h)), sections
23 128(e)(12)(A) and 105(k) of such
24 Act)” after “section 128(e)”; and

1 (iii) in subparagraph (C), by striking
2 “form” and inserting “forms”.

3 (3) Section 154 (20 U.S.C. 1019c) is amend-
4 ed—

5 (A) in subsection (a), by striking “develop-
6 ment of the” and inserting “development of a”;
7 and

8 (B) in subsection (b)(2)—

9 (i) by inserting “one of” before “the
10 model disclosure”; and

11 (ii) by striking “form developed” and
12 inserting “forms developed”.

13 **SEC. 403. SUPPORTING OUTCOMES-BASED UNDERWRITING.**

14 Section 701(b) of the Equal Credit Opportunity Act
15 (15 U.S.C. 1691(b)) is amended—

16 (1) by redesignating paragraphs (4) and (5) as
17 paragraphs (5) and (6); and

18 (2) by inserting after paragraph (3) the fol-
19 lowing:

20 “(4) to use any empirically derived credit sys-
21 tem to determine whether to approve an application
22 or establish the financial or other terms of an OBF
23 product, if that empirically derived system—

24 “(A) considers—

1 “(i) the historical graduation rates,
2 debt-to-income ratios, income or earnings
3 of consumers who were previously enrolled
4 at the institution, major, or program of
5 study that the applicant is attending or
6 will attend (or a reasonably comparable in-
7 stitution, major, or program of study); or

8 “(ii) the historical income or earnings
9 of workers in the field or profession for
10 which the program is preparing students;
11 and

12 “(B) is demonstrably and statistically
13 sound in accordance with regulations of the Bu-
14 reau;”.

15 **SEC. 404. TREATMENT UNDER THE FAIR CREDIT REPORT-**
16 **ING ACT.**

17 (a) AMENDMENT.—Section 605 of the Fair Credit
18 Reporting Act (15 U.S.C. 1681e) is amended by adding
19 at the end the following:

20 “(i) OBF PRODUCT INFORMATION.—

21 “(1) IN GENERAL.—With respect to an OBF
22 product (as that term is defined in subsection (h) of
23 section 140 of the Truth in Lending Act (15 U.S.C.
24 1650(h)), a consumer report made by a consumer
25 reporting agency—

1 “(A) may include a description of the con-
2 tract terms of the OBF product and, subject to
3 subsection (a), information with respect to
4 amounts that are owed under the OBF product;
5 and

6 “(B) with respect to an outcomes-based
7 payment agreement, may not include any specu-
8 lation about future amounts that may be owed
9 under the outcomes-based payment agreement,
10 including the reporting of any payment caps or
11 early termination amounts.

12 “(2) REGULATIONS.—The Bureau shall promul-
13 gate regulations with respect to the manner in which
14 OBF providers may furnish, and consumer reporting
15 agencies may report, information relating to OBF
16 products.”.