



The Student Loan Borrower Assistance Project (SLBA) is a program of the [National Consumer Law Center](#) (NCLC).

POLICY BRIEF

Restore The Bankruptcy Fresh Start for Student Loan Borrowers

It is time to restore fairness to the bankruptcy system and give government and private student loan borrowers the same bankruptcy protections as consumers with other types of unsecured debt.

Rationale

- **Student loan borrowers are trying to better themselves and contribute to the advancement of our nation and economy. Yet the current bankruptcy law treats students who face financial distress in the same severe way as people who are trying to discharge child support payments, alimony, overdue taxes and criminal fines.**
This policy is bad for individual debtors who are being punished for trying to get an education and bad for our economy which is fueled by an educated work force.
- **The current system deters students and graduates from trying again if they fail to capture the benefits of higher education the first time around.**
- **Treating student loans different in bankruptcy is based on the false assumption that higher education always leads to financial success.**
Education often brings economic rewards, but not in all cases. Some borrowers choose to work in careers that are less lucrative and often for the public good. Others run into unexpected life traumas that lead to financial trauma. Still others attend fraudulent schools.
- **There is no evidence that restoring consumer bankruptcy rights will make student loans less available or increase costs for other consumers.**
- **There has never been any evidence of significant abuse by student loan borrowers. Regardless, the new bankruptcy rules passed in 2005 are intended to address abuses and preserve the bankruptcy safety net for those borrowers who truly need it.**
- **Most consumers file for bankruptcy because of unexpected emergencies or traumas in their lives.**
It is important that students realize that they are required to meet their debt obligations. However, even with counseling, some will be unable to repay. These borrowers should be given the same opportunity for a fresh start that is afforded other debtors.
- **It is critical to act now during difficult economic times, particularly in restoring bankruptcy rights for private student loan borrowers.**
Many private student lenders have aggressively made loans to borrowers at unaffordable rates and terms. As occurred in the subprime mortgage industry, many student loan creditors made loans without careful scrutiny or oversight because they knew they could sell the loans to investors. We must provide borrowers with a reasonable way out of indebtedness rather than insulating lenders from the consequences of their destructive practices.

For more details, see the National Consumer Law Center report, “No Way Out: Student Loans, Financial Distress and the Need for Policy Reform”, available at:

<http://www.studentloanborrowerassistance.org/uploads/File/nowayout.pdf>.

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