



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

STATEWIDE
ADVOCACY SUPPORT UNIT

Cornelia Bright Gordon, Esq.
Director of Advocacy
for Administrative Law
(410) 951-7728
cbgordon@mdlal.org

Gregory Countess, Esq.
Director of Advocacy
for Housing & Community
Economic Development
(410) 951-7687
gcountess@mdlal.org

Anthony H. Davis, II, Esq.
Director of Advocacy
for Consumer Law
(410) 951-7703
adavis@mdlal.org

Erica I. LeMon, Esq.
Director of Advocacy
for Children's Rights
(410) 951-7648
elemon@mdlal.org

Amy Petkovsek, Esq.
Director of Advocacy
for Training & Pro Bono
(410) 951-7813
apetkovsek@mdlal.org

Bobbie Steyer, Esq.
Director of Advocacy
for Family Law
(410) 951-7737
bsteyer@mdlal.org

Julianne Kelly Tarver, Esq.
Director
Pro Bono Program
(410) 951-7642
jkelly@mdlal.org

Meaghan McDermott, Esq.
Director
Community Lawyering Initiative
(410) 951-7635
mmcdermott@mdlal.org

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7818 (Fax)

www.mdlal.org
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March 2, 2020

The Honorable Dereck E. Davis
Chair, Economic Matters
House Office Building, Room 231
Annapolis, MD 21401

Re: In Support of House Bill 1562 – Action to Collect A Private Education
Loan – Required Documents

Dear Chairman Dereck E. Davis and Members of the Committee:

Thank you for receiving my written testimony in support of House Bill 1562. My testimony is provided at the request of Delegate Lesley Lopez District 39, Montgomery County and it is based upon the experiences derived from representing clients at Maryland Legal Aid, Inc.

Maryland Legal Aid is a private, non-profit law firm providing free civil legal services to low-income residents throughout the State. We serve as advocates of justice and endeavor to add maximum positive value to all who request legal assistance. Our mission is to provide high-quality representation to those in poorer communities and to bring positive change in the systems that affect them. We focus on basic human rights and critical areas of legal representation in matters affecting consumer law and protection, affordable and safe housing, public benefits, foreclosure, family law, and children's rights.

The typical private student loan collection lawsuit in Maryland is brought by someone other than the borrower's original lender. Much like a homeowner's mortgage, an individual's private student loan has often been bought, sold, assigned, and/or transferred several different times to more than a few different entities as part of a larger transaction in the asset-backed securities marketplace. Such subsequent transfers and multiple purchasers of these bundled loans are common. There are the debt buyers who further muddy the waters of who can bring suit against a borrower. All-in-all, amidst this whirlwind of wheelings and dealings, in many of these

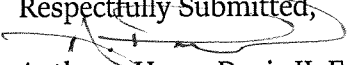
lawsuits the person claiming to be the holder of the loan may or may not be, and may not possess any admissible evidence to prove such critical facts such ownership, the amount of indebtedness, proof of assignment, the validity of affidavits or loan documents, personal knowledge of the affiant, or even if the information claimed in their pleadings are correct.

In Maryland and across the country, creditors are seeking judgments every day to collect on loans that they cannot prove they own. Because they lack proper documentation, these companies are lying to both borrowers and the courts about their legal ability to sue borrowers and obtain court orders to garnish borrower's wages. These abuses add insult to injury for borrowers pushed into high-rate debt by for-profit colleges and predatory lenders. Just like the days of subprime lending in the mortgage industry, in many instances lenders understood at the time that these loans were made that many borrowers would struggle and fail to repay these debts, and once the loan were in default, filing for protection in bankruptcy would not be an option for them.

Maryland Legal Aid supports HB1562 because it requires those who seek judgments against borrowers to meet their burden of proof, which is a requirement of all those who bring legal action to collect a debt. This legislation does what should be done – place the burden on creditors and debt collectors to prove private student loan debts are valid when attempting to collect, to prove that they are the holders of the debt, that the borrowers do owe the debt, that their affidavits are based on personal knowledge not “robo-signatures”, and it prevents creditors from obtaining court orders to garnish wages and seize assets to repay defaulted student loans that creditors cannot prove borrowers owe.

Maryland Legal Aid believes that the proposed bill is common sense legislation rooted in the notion of fairness under the law, the wisdom of transparency in judicial proceedings, and the Maryland practice of safeguarding consumers from unscrupulous and abusive collections practices. Additionally, it gives strength to borrowers to pursue a private right of action when debt collectors and creditors break the law. As consumer advocates, we need this bill and we need to set this precedent for the country that business transacted in Maryland will be done fairly and in accordance with the law.

Respectfully Submitted,


Anthony Hayes Davis II, Esq.
Director of Advocacy for Consumer Law
Statewide Advocacy Support Unit
Maryland Legal Aid, Inc.
500 E. Lexington Street
Baltimore, Maryland 21202
(410) 951-7703