

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

**STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION**

Writer's Direct Dial No.
(410) 576-6585

March 4, 2020

TO: The Honorable Dereck E. Davis, Chair
Economic Matters Committee

FROM: Christopher J. Madaio, Assistant Attorney General - Consumer Protection Division

RE: House Bill 1562 – Action to Collect a Private Education Loan - Required Documents
– FAVORABLE

The Consumer Protection Division of the Office of the Attorney General supports House Bill 1562, sponsored by Delegate Lopez, because it protects Maryland consumers from unfair, deceptive, and abusive practices in the collection of private student loans, which constitute over \$100 billion of the student loan market.

Our office, along with other Attorneys General, have long been concerned about the rising numbers of debt collection lawsuits that are commenced with boilerplate complaints, contain virtually identical allegations, and provide minimal evidentiary support. The Federal Trade Commission has also concluded that certain debt collection litigation practices “appear to raise substantial consumer protection concerns,” including the filing of suits based on insufficient evidence in which debt collection complaints do not provide important information such as the name of the original creditor, the date of the default or charge-off, the amount due at that time, the name of the current owner of the debt, the total amount currently due, and a breakdown of the total amount currently due by principal, interest, and fees.¹

These problems are intensified for borrowers of private student loans because they already face difficult challenges. For instance, private student loans often have extremely high interest rates² and feature no flexible or affordable repayment options that are available to borrowers of federal student loans, leaving borrowers with few options when they face a change in their financial circumstances like a loss of employment. Many private lenders also require student loan borrowers to obtain a co-signer (usually a family member), who is equally responsible for the payment of the loan. When private student loan borrowers fall behind on their debt, they often face aggressive

¹ Federal Trade Comm’n, Repairing a Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration, ii, 17 (July 2010). <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-consumer-protection-staff-report-repairing-broken-system-protecting/debtcollectionreport.pdf>

² <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-finds-distressed-private-student-loan-borrowers-driven-into-default/>



debt collection tactics and lawsuits, and the federal options of rehabilitation and consolidation to get out of default are generally unavailable to private student loan borrowers.

Federal and state law enforcement agencies have brought significant litigation alleging predatory lending and collection practices by large private education lenders³ and, in one of the most egregious instances, the National Collegiate Student Loan Trusts (“NCLST”) utilized abusive collection practices, robo-signing, and illegal pursuit of invalid debts.⁴ The NCLST owns more than 15,000 loans of Maryland borrowers that totaled more than \$190 million, and has filed 1,257 cases against Marylanders in the past five years. These cases disproportionately target communities of color in Maryland with more than half filed against borrowers in zip codes with a majority-minority population.

This bill does not alter private student loan contracts or allow consumers to avoid paying a debt that they legitimately owe. Instead, it protects Maryland consumers by ensuring that all creditors of private student loans possess accurate, personalized loan records and documentation for each loan and present the information to the court to prove that they are collecting from the correct person in the correct amount that is owed. Furthermore, the bill requires creditors to prove that they have the right to collect on the loan and that the statute of limitations has not expired before obtaining a judgment in a Maryland court and garnishing a borrower’s wages.

The Consumer Protection Division urges the Committee to give HB1562 a favorable report.

cc: Members, Economic Matters Committee
Delegate Leslie Lopez

³ See, e.g. State of Washington v. Navient Corporation, et. al., https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/20170118ComplaintRedacted.pdf

⁴ https://files.consumerfinance.gov/f/documents/201709_cfpb_national-collegiate-student-loan-trusts_complaint.pdf