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TO: Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee Members

FROM: Maryland Legislative Latino Caucus (MLLC)

DATE: March 30, 2021

RE: HB26 Action to Collect a Private Education Loan - Required Documents

The MLLC supports HB26 Action to Collect a Private Education Loan - Required Documents.

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB26.

Student loans have become the [second-largest source of debt](#), after a home mortgage. By the end of 2010, the U.S. student debt was about \$845 billion. A decade later students owe more than [\\$1.7 trillion](#) in student loans—a 102% increase in the past ten years. As these numbers increase, collectors see an opportunity to take advantage of students and their families. Lenders and collectors use abusive and predatory tactics by filing erroneous, or faulty lawsuits against student borrowers. [Students](#) are being sued for debts that they no longer owe, persecuted by companies they never borrowed from, and taken to court by creditors that lack legal standing. These collection agencies also target communities of color, a trend occurring in Maryland.

One of the largest owners of private student loan debt, the National Collegiate Student Loan Trust (NCSLT) has filed a majority of their collection lawsuits against [Maryland residents](#) who live in majority-residents of color zip codes. In addition, during this COVID-19 pandemic, NCSLT has continued to file claims against Maryland student borrowers, many who are already suffering from exacerbated health disparities. Currently, collectors are not required to provide loan documentation to the courts when filing a lawsuit, enabling predatory strategies to take advantage of our state's vulnerable borrowers.

HB26 requires a private education lender or a private education loan collector to possess and introduce evidence of a valid and outstanding loan to initiate a collection action. Failure to produce the required documentation upon request by the borrower is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act. This legislation will provide the protection Marylanders need from these foul and intimidating companies.

The MLLC supports this bill and urges a favorable report on HB26.

HB 26 JPR Sponsor Testimony.pdf

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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

March 30, 2021

Testimony in SUPPORT of HB 26 - Action to Collect a Private Education Loan - Required Documents

Summary: HB 26 bans the use of mass-produced documentation, also known as “robo-signing,” by requiring collectors to prove private student loan debts are valid when attempting to collect. This bill places the burden on creditors to certify that old debts are not barred by state statutes of limitations, preventing creditors from obtaining judgements against borrowers for time-barred debts. This protection will prevent creditors from obtaining court orders to garnish wages and seize assets to repay defaulted student loans that creditors cannot prove borrowers owe.

Overview: As Marylanders continue to feel the economic pain of COVID-19, one group of economically vulnerable constituents has been left out of conversations regarding relief: private student loan borrowers. These borrowers were excluded from all federal relief packages and collectively owe more than \$100 billion nationally, often at higher interest rates and with less protections than borrowers with only federal student loans.

Private student loans are often a last resort for students who have taken the maximum amount for federal loans. Because many private loans require cosigners, the financial repercussions can span generations.

Lack of oversight of private loan creditors has led to disastrous consequences for these borrowers. Similar to the subprime mortgage crisis from several years ago, economically vulnerable borrowers across the higher education landscape were targeted by predatory private lenders a decade ago and continue to struggle and fall behind on these debts. For more than two years, law enforcement officials have brought significant federal and state litigation alleging predatory lending by the largest private education lender and alleging abusive collections, robo-signing, and illegal pursuit of invalid debts by collectors, investors, and servicers. These cases expose significant, systemic flaws in the way the judicial system approaches private education loan debts, particularly in terms of wage garnishment.

Private student loan 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, including the Maryland courts, about their legal ability to sue borrowers and obtain court orders to garnish borrowers' wages.

The National Collegiate Student Loan Trusts (NCSLT), just one of these creditors, owned more than 15,000 separate loans owed by Maryland borrowers, totalling more than \$190 million. The federal government has ordered NCSLT to pay over \$20 million for its deceptive acts in the past.

An analysis of court filings in Maryland by the Student Borrower Protection Center shows that just this one creditor, NCSLT, filed 1,334 cases against Maryland borrowers in the past five years alone. These cases disproportionately target communities of color in Maryland. More than half of the lawsuits analyzed are against borrowers in majority-minority zip codes. And 25.9% of all lawsuits analyzed were filed in majority-minority Prince George's County, which as the committee knows well, was the center of Maryland's foreclosure crisis a decade ago.

In addition to people of color, seniors are also disproportionately impacted by this abuse. Because borrowers of private student loans almost always require a cosigner, parents and grandparents are more frequently defaulting on private student loan debt. According to AARP, 37 percent of the student loan borrowers over 65 are in default. Not only is the potential to retire put at risk, many of these seniors are already on a fixed income and have benefits highly susceptible to wage garnishment. Since 2005, the amount of seniors whose benefits were garnished as the result of a defaulted student loan has quadrupled.

Conclusion: HB 26 prevents these abuses from happening in Maryland by requiring creditors to provide specific evidence in wage garnishment lawsuits that proves that the loan is in default and that they are the creditor owed the loan. This will ensure that private loan borrowers in Maryland do not fall victim to predatory and unsubstantiated lawsuits.

Thank you and I ask for a favorable report on HB 26.

Judicial Proceedings Committee Member NCSLT Cases by District

Chair William Smith—District 20, Montgomery County

Zip Codes	2015-2020 Cases	2020 Cases
20705	3	0
20901	8	0
20903	4	0
20904	36	1
20910	12	0
20912	7	0
Total	70	1

Vice Chair Jeff Waldstreicher—District 18, Montgomery County

Zip Codes	2015-2020 Cases	2020 Cases
20814	0	0
20815	1	0
20851	2	3
20852	2	2
20853	5	0
20895	0	0
20896	0	0
20902	11	1
20906	20	0
20910	12	0
Total	53	6

Senator Jack Bailey—District 29, Calvert and St. Mary's Counties

Zip Codes	2015-2020 Cases	2020 Cases
20606	0	0

20609	0	0
20618	0	0
20619	0	0
20620	0	0
20621	0	0
20622	0	0
20624	0	0
20626	1	0
20628	0	0
20629	0	0
20630	0	0
20634	0	0
20636	0	0
20650	0	0
20653	1	0
20657	8	0
20659	4	1
20660	0	0
20667	0	0
20670	0	0
20674	0	0
20680	0	0
20684	0	0
20686	0	0
20687	0	0
20688	0	0
20690	0	0
20692	0	0
Total	14	1

Senator Jill Carter—District 41, Baltimore City

Zip Codes	Cases 2015-2020	Cases 2020
21207	4	0
21208	2	0
21209	0	0
21210	0	0
21211	7	0
21212	3	0
21215	13	1
21216	3	0
21218	3	0
21229	9	0
Total	44	1

Senator Robert Cassilly—District 34, Harford County

Zip Codes	Cases 2015-2020	Cases 2020
21001	3	0
21005	0	0
21009	14	0
21010	0	0
21014	4	0
21015	2	0
21017	1	0
21040	2	0
21078	2	0
21085	5	2
21130	0	0
Total	33	2

Senator Shelly Hettleman—District 11, Baltimore County

Zip Codes	Cases 2015-2020	Cases 2020
21030	4	0
21031	0	0
21093	2	0
21117	27	3
21133	19	3
21136	8	2
21153	0	0
21204	5	0
21208	2	0
21209	0	0
21210	0	0
21212	3	0
21215	13	1
Total	70	8

Senator Michael Hough—District 4, Frederick and Carroll Counties

Zip Codes	Cases 2015-2020	Cases 2020
20842	0	0
20871	4	4
21157	8	0
21701	6	0
21702	11	0
21704	2	0
21710	2	0
21716	2	0
21718	0	0
21719	0	0
21727	0	0

21754	0	0
21755	0	0
21757	0	0
21758	0	0
21762	0	0
21769	0	0
21770	2	1
21771	2	1
21773	0	0
21774	3	0
21776	0	0
21778	0	0
21780	0	0
21783	1	0
21787	0	0
21788	3	0
21791	0	0
21793	0	0
21797	0	0
21798	0	0
Total	46	6

Senator Michael Jackson—Prince George’s, Calvert, and Charles Counties

Zip Codes	Cases 2015-2020	Cases 2020
20601	9	0
20607	3	0
20608	0	0
20612	0	0
20613	1	0
20615	0	0

20623	4	0
20637	0	0
20639	1	0
20657	8	0
20676	0	0
20678	7	0
20685	1	0
20689	0	0
20714	1	0
20732	0	0
20735	9	0
20736	1	0
20754	0	0
20758	0	0
20772	40	0
Total	85	0

Senator Susan Lee—District 16, Montgomery County

Zip Codes	2015-2020 Cases	2020 Cases
20812	0	0
20814	0	0
20815	1	0
20816	0	0
20817	1	0
20818	0	0
20852	2	2
20854	2	0
20895	0	0
Total	6	2

Senator Charles Sydnor—District 44, Baltimore City and Baltimore County

Zip Codes	Cases 2015-2020	Cases 2020
21043	4	0
21207	4	0
21208	2	0
21215	13	1
21216	3	0
21217	9	0
21223	1	0
21228	6	4
21229	9	0
21244	11	0
Total	62	5

Senator Chris West—District 42, Baltimore County

Zip Codes	Cases 2015-2020	Cases 2020
21013	0	0
21030	4	0
21031	0	0
21053	0	0
21057	0	0
21074	0	0
21082	0	0
21093	2	0
21102	9	0
21111	0	0
21120	4	1
21131	0	0
21136	8	2
21152	3	0

21155	0	0
21204	5	0
21212	3	0
21234	32	2
21239	3	1
21252	0	0
21286	3	3
Total	76	9

HB26 - Testimony in Support for JPR hearing - Atto

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March 30, 2021

TO: The Honorable William C. Smith, Jr., Chair
Judicial Proceedings Committee

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

RE: House Bill 26 – Action to Collect a Private Education Loan - Required Documents
FAVORABLE

The Consumer Protection Division of the Office of the Attorney General supports House Bill 26, sponsored by Delegate Lopez, because it will help to protect Maryland consumers from unfair, deceptive, and abusive practices in the collection of private student loans owned or collected upon by bad-acting debt buyers, trusts, and other non-bank or non-credit union companies.¹ These protections are especially needed at this time when the people most likely to be sued for defaulting on a private student loan are the same people who are most harmed by the economic devastation of the COVID-19 global pandemic.

Our office, along with other Attorneys General and the Federal Trade Commission, have long been concerned about the rising numbers of debt collection lawsuits that have little, if any, evidentiary support and are filed with boilerplate allegations that lack important information such as the name of the original creditor and the current owner of the debt, the date of the default, and the amount due.² These problems are intensified for borrowers of private student loans that often have higher interest rates³ than federal student loans and do not feature affordable repayment options (such as income-based repayment plans) or rehabilitation and consolidation options when borrowers fall behind on payments, all of which are available to federal student loan borrowers, leaving students with few options when they face a change in their financial circumstances like a loss of income or a job due to COVID-19.⁴ Because the pause on all payments for federally owned student loans in the CARES Act and the subsequent executive orders did not affect private student loans, borrowers of those loans have

¹ This bill exempts banks that are governed by the Federal Deposit Insurance Act or federal or state credit unions governed by the Federal Credit Union Act.

² <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-consumer-protection-staff-report-repairing-broken-system-protecting/debtcollectionreport.pdf>

³ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-finds-distressed-private-student-loan-borrowers-driven-into-default/>

⁴ Many private lenders also require student loan borrowers to obtain a co-signer (usually a parent or grandparent), who is equally responsible for the payment of the loan.

been left unprotected from aggressive debt collection tactics and lawsuits that lack evidence to support the claims filed by the holders of the student loan debt.

In addition to the aggressive contract terms that lack any of the consumer protections in federal loans, private student loans are often relied upon by students attending for-profit institutions because the price of those schools is much higher (but the quality of education and earnings potential is generally much lower) than a similar program at a UM System school, an HBCU/MSI, or a community college. Our office and other State Attorneys General have investigated multiple for-profit institutions of higher education that use illegal recruitment tactics to convince students to incur a significant amount of private student loan debt to pay for their programs by utilizing high pressure sales tactics, emotional appeals, and making unfair, deceptive, and abusive tactics.

Federal and state law enforcement agencies have brought significant litigation alleging predatory lending and collection practices by large private education lenders⁵ 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.⁶ 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 is narrowly tailored to apply only to trusts, including the NCLST, and other non-bank or credit union debt buyers and collectors because this is a significant source of abusive collection practices.

This bill does not alter private student loan contracts, allow consumers to avoid paying a debt that they legitimately owe, or reduce access to student loans. Instead, House Bill 26 provides desperately needed protections for Maryland student loan borrowers by ensuring that applicable creditors and collectors of private student loans possess accurate loan records and documentation for each loan and present that information to the court to prove that they are collecting the actual amount owed from the correct person. Furthermore, before applicable debt collectors can obtain a judgment in a Maryland court and garnish a borrower’s wages, the bill requires them to prove that they have the right to collect on the loan and submit an affidavit to establish that the statute of limitations has not expired.

An amendment adopted by the House Appropriations committee clarified that documents that never existed need not be produced and personal identifying information of consumers should be redacted, thereby addressing concerns raised by the Maryland Judiciary.

The Consumer Protection Division urges the Judicial Proceedings Committee to give HB26 a favorable report.

cc: Members, Judicial Proceedings Committee
Delegate Lesley Lopez

⁵ See, e.g. *State of Washington v. Navient Corporation*, https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/20170118ComplaintRedacted.pdf
⁶https://files.consumerfinance.gov/f/documents/201709_cfpb_national-collegiate-student-loan-trusts_complaint.pdf