

MEMORANDUM IN SUPPORT FOR HB 111

SYNOPSIS: Provides consumer protections to borrowers with private education loans against unfair debt collection practices.

INTRODUCED BY: Delegate Lesley J. Lopez

STATEMENT OF SUPPORT: Consumer Reports supports HB 111, which would create critically needed consumer protections for Maryland student loan borrowers who have private student loans, ensure that the companies that service private loans operate fairly and transparently, and are accountable to borrowers and regulators.

The nation is currently facing a student loan debt crisis, as more than 43 million Americans owe at least \$1.5 trillion in student loan debt backed by the federal government,¹ plus another \$128 billion in private student loans.² Maryland student loan borrowers hold an estimated \$30 billion in outstanding debt, of which approximately \$2.89 billion is private student loan debt.³

Since the recovery from the 2008 financial crisis, the private student loan market has been expanding in the United States, growing more rapidly than lending for other financial services such as mortgages, auto loans and credit cards. Borrowers with private student loans have many fewer protections than borrowers of federal student loans. Typically, these loans have less favorable terms and carry few safeguards when borrowers experience financial distress. This situation puts Maryland borrowers at greater risk for delinquency and default, which can have lifelong consequences.

Private student loan companies and loan collectors have engaged in a wide range of unfair practices, including using robo-signed documents to pursue collection judgments that are not properly substantiated; preventing co-signers from obtaining release and withholding documentation and information from them; putting loans in “auto-default” to collect the entire balance of the loan when co-signers die or file for bankruptcy; and making predatory loans at for-profit schools.

Research by the national Student Borrower Protection Center, the Maryland Consumer Rights Council and SEIU Local 500 has specifically documented that private education lenders and loan collectors

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¹ Miller, B., et al, “Addressing the \$1.5 Billion in Student Loan Debt,” Center for American Progress, 6/12/19, available at: <https://www.americanprogress.org/issues/education-postsecondary/reports/2019/06/12/470893/addressing-1-5-trillion-federalstudent-loan-debt/>

See also US Federal Reserve, Consumer Credit G.19, available at: <https://www.federalreserve.gov/releases/g19/current/default.htm>

² Kaufman, Ben. “Private Student Lending,” Student Borrower Protection Center, 4/30/20, p.7., available from: https://protectborrowers.org/wp-content/uploads/2020/04/PSL-Report_042020.pdf

³ “50 State Snapshot of Student Debt,” Consumer Financial Protection Bureau, October 2017, available at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_student-loans_50-state-snapshot_complaints.pdf; Student Borrower Protection Center calculation based on Department of Education and Federal Reserve Bank of NY data; and see also: Friedman, Zack, *How Much Student Loan Debt is in Your State?* Which estimates 12% of outstanding higher education loans in Maryland are private education loans, Forbes.com, 12/1/21, available at: <https://www.forbes.com/sites/zackfriedman/2021/12/01/how-much-student-loan-debt-is-in-your-state/?sh=4f6e4860434e>

⁴ Op cit. note #2.

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including Navient and the National Collegiate Student Loan Trusts (NCSLT) are bringing collection actions and lawsuits against Maryland loan borrowers, often using robo-signed documents and poor substantiation about the nature of the debt and status of repayment. Across all Maryland counties, NCSLT has filed more than 1,330 cases against Maryland borrowers in the past six years alone. And these cases have continued throughout the COVID-19 pandemic, even though federal student loan repayment was paused during this period. As noted by the report, this avalanche of litigation weighs most heavily on communities of color. For example, more than 1-in-4 of NCSLT debt collection lawsuits were filed in Prince George's County—Maryland's largest majority-Black county.¹

HB 111 would create strong protections for private student loan borrowers, by ensuring that private student loan companies and loan collectors treat borrowers fairly in servicing and collections.

The bill would:

- Require lenders and debt collectors to have documentation related to the private student loan debt in question prior to initiating a collection action and that the same be filed with the court before a judgment can be entered;
- Mandate that lenders and debt collectors communicate specific information about the private student loan debt to the consumer when seeking payment and upon request of the consumer;
- Provide that a failure to produce any of the documents required by the bill to a borrower constitutes an unfair, abusive, or deceptive practice under Maryland law, furthering industry accountability and enhancing the state Attorney General's oversight over these predatory practices; and
- Create a private right of action for borrowers to seek recourse if they suffer any damages as a result of a lender or collector's failure to comply with the law.

This pro-consumer legislation will help Maryland's economy by helping private student loan borrowers and co-signers to get the basic information they need to protect their rights in repayment; avoid delinquency and default; defend themselves against unfair collection practices; and arrange effective payment arrangements with private lenders that are appropriate and suitable for their financial interests.

For all these reasons, Consumer Reports strongly urges you to support HB 111 to improve state oversight of private student loans, and protect borrowers from unfair, deceptive, and predatory tactics by private student loan companies and loan collectors.

For more information, contact:

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¹ Student Borrower Protection Center, Maryland Consumer Rights Coalition and SEIU Local 500, *The Long Legacy of Predatory and Private Student Loans: Defrauding Borrowers and Lying to the Courts*, January 2021, available at: <https://protectborrowers.org/wp-content/uploads/2021/12/Maryland-NCSLT.pdf>