

MEMORANDUM IN SUPPORT FOR H.B.111 and S.B.732

TITLE: Action to collect a private student loan – documents required

SPONSORED BY: Delegate Lesley J. Lopez, and Senators Ron Watson, Susan C. Lee, Paul G. Pinsky, Jim Rosapepe, William C. Smith, and Jeff Waldstreicher

SYNOPSIS: Prohibiting private education lenders and private education loan collectors from initiating a certain action unless the private education lenders or private education loan collectors possess certain documents; requiring a private education lender or private education loan collector to introduce certain information in a certain action; and requiring a private education loan collector to provide certain information to a student loan borrower in a certain communication and on request of the student loan borrower.

STATEMENT OF SUPPORT: Consumer Reports supports H.B.111/S.B.732, which would create critically needed consumer protections for Maryland student loan borrowers who have private student loans, and 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 \$30 billion in outstanding debt,³ including \$2.89 billion in private student loan debt owed by 270,000 borrowers.⁴

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 higher interest rates and less favorable terms. They 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.

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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-federal-student-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

⁴ Student Borrower Protection Center calculation based on Department of Education and Federal Reserve Bank of New York data.

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Private student loan companies have engaged in a wide range of unfair practices, including preventing co-signers from obtaining release and withholding documentation and information from them; using robo-signed documents to pursue collection judgments that are not fairly substantiated; 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.⁵

In 2021, the Maryland Consumer Rights Coalition, SEIU Local 500 and the Student Borrower Protection Center issued a report detailing the debt collection lawsuits filed in the state of Maryland from 2015 through 2020.⁶ Navient, the largest private creditor in the student loan market, has obtained default judgments and wage garnishment orders against Maryland borrowers, despite its public pledge to halt collections litigation in the wake of the pandemic. Similarly, another large creditor in the student loan market, the National Collegiate Student Loan Trusts (NCSLT), which is notorious for suing to collect on private student loans that it cannot prove it actually owns, is active in the state. Across all Maryland counties, NCSLT has filed over 1,330 cases against Maryland borrowers since 2015. 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. Against this backdrop, it is clear to see why this legislation is desperately needed.

H.B. 111 is the response that Maryland needs to address some of the most harmful tactics employed by private education lenders to sue borrowers for unsubstantiated debts. Some of these common-sense but important protections include:

- Requiring 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;
- Mandating 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;
- Providing 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
- Creating 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.

H.B.111 and S.B. 732 would create a comprehensive set of protections for private student loan borrowers, by ensuring that private student loan companies and services treat borrowers fairly

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⁵ Op.cit note #2.

⁶ Maryland Consumer Rights Coalition, SEIU Local 500 and Student Borrower Protection Center, *The Long Legacy of Predatory Private Student Loans: Defrauding Borrowers and Lying to Courts*, January 2021, available at:

<https://protectborrowers.org/MD-psl-collections>

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in repayment and debt collection. The bill establishes strong, fair ground rules for private student loan companies, so that they will more fully respect consumer rights, and work with borrowers when they face hardships and financial challenges in loan repayment.

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 obtain better protection and 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 H.B.111/S.B.732 to improve state oversight of private student loans, and protect borrowers from unfair, deceptive, and predatory tactics by private student loan companies and debt collectors.

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