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**Testimony of Frank D'Alessandro,
Maine Equal Justice, *in support of LD 1645*
An Act To Establish Protections for Private Student Loan Borrowers
and a Registry of Lenders**

May 13, 2021

Good afternoon Senator Sanborn, Representative Tepler, and members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services. My name is Frank D'Alessandro, and I am the Director of Litigation and Policy for Maine Equal Justice. We are a civil legal services organization, and we work with and for people with low income seeking solutions to poverty through policy, education, and legal representation. Thanks for the opportunity to offer testimony to you in support of LD 1645.

Maine Equal Justice supports the passage of this bill. In particular, we strongly support the provisions of this bill that let individuals harmed by the actions of a private student loan lender to bring private lawsuits on their own behalf. We believe that private lawsuits would be critical to ensuring that individuals harmed by private student loan lenders have a quick and direct way to enforce the rights that this bill would guarantee.

What LD 1645 Would Do

This bill contains provisions for private education lenders to provide information and disclosures to borrowers and cosigners, provisions to allow a cosigner to be released from obligations under a private education loan, the discharge of the loan or release of a cosigner if the borrower or cosigner dies or suffers a total and permanent disability, provisions regarding alternative repayment options, prohibitions on

accelerating loan payments under most conditions and requirements for the collection of delinquent private education loans.

This bill affords cosigners of private student financing the same rights and protections afforded the primary student borrowers of private student financing. Co-signers are the oft-forgotten victims of illegal servicing practices. They typically include parents and grandparents, whose precarious retirement finances could be harmed by illegal servicing practices.

Why Maine Equal Justice Supports LD 1645

In 2019 the Maine Legislature passed enacted the Student Loan Borrower Bill of Rights (Article 14 of Title 9-A) This law established vital protections across the student loan servicing market in Maine, but there remain actors and practices specifically in the private student loan market that are not covered by this law.

LD 1645 creates critical protections for private student loan borrowers in three ways:

- Establishing foundational protections for certain private student loan features, including disability discharge and cosigner release;
- Closing loopholes in private student loan collection practices by prohibiting collection until a loan holder can prove it owns the debt; and
- Increasing transparency and accountability in Maine's private student lending market by establishing a registry of private student lenders.

Importantly, this bill provides student borrowers the right to bring a legal action to enforce their rights under this law. The focus of my testimony will focus on the importance of including a private right of action for consumers in this bill.

Without the Ability to Bring Private Lawsuits the Protection Afforded to Student Loan Borrowers in this Act Would be Inadequately Enforced

Without private lawsuits, victims of servicers would have almost no way to directly enforce their rights secured by this Act.

The Consumer Rights Division of the office of the Attorney General and other consumer protection agencies in Maine do invaluable work on behalf of Mainers. But the State of Maine does not have the resources necessary to monitor, identify, and prosecute all violations of this bill. The Attorney General's greater concern with systemic, big-picture issues than on individual cases, makes it ill-suited to suing servicers for individual violations. Government lawsuits against servicers - and a 2017 audit by the federal Department of Education - show that the current level of enforcement by government agencies is not sufficient to prevent the abuses that this bill seeks to prevent.

Importantly, the government's eagerness to enforce the law typically changes after major elections. Even if government lawyers could and did address every individual abuse perpetrated by student loan servicers - which they cannot and do not do - federal and state enforcement activities sharply slowdown or speed up after every major election. Private lawsuits against servicers would make enforcement activities less political and more constant.

If LD 1645 becomes law, borrowers or co-signers would be able to sue to enforce their rights under this Act directly-at no cost to the State of Maine. Borrowers or co-signers who succeed in lawsuits would be entitled to any actual damages, statutory damages, attorneys' fees, and court costs.

Private Lawsuits Would Make Private Student Loan Lenders More Responsible and Boost Maine's Economy

A. Make Private Student Loan Lenders More Responsible

The actions of private student loan lenders can be ruinous for borrowers. Higher and more frequent payments are good for the lender, even if the borrower does not owe those payments. Misreporting a borrower's payments or principal to a credit reporting agency might mean the borrower is denied for a mortgage application or car loan or may impede the borrower's ability to

rent an apartment or secure employment. No immediate negative consequences exist for this behavior.

In contrast, providing a borrower with the protections afforded by this Act costs lenders time and money. These practices are often lucrative for lenders, but almost always damaging to borrowers. Private lawsuits against lenders would help correct this imbalance.

Over the past century, we have learned that lawsuits change behavior. Litigation has made many corporations more responsible. All the warning signs on your devices, recalls of your cars, and safety features that are now standard in thousands of products are not exclusively the result of regulation; many are the result of litigation. As with products, so with institutions.

Permitting borrowers and co-signers to sue servicers on their own behalf would make student loan servicers more responsible.

B. Boost Maine's Economy

Part of the money that borrowers would save if servicers were more responsible would be spent in the local economy. Take one activity that LD 1645 proposes to prohibit: collection of a debt in cases in which the borrower is disabled (§16-104). The difference for a disabled borrower of not continuing to be required to make student loan payments could amount to extra income for the borrower to pay for basic necessities of thousands of dollars per year.

That extra income would likely be spent in Maine. After polling 400 Mainers with student debt, the Maine Center for Economic Policy found that 25% of them skipped rental or mortgage payments to make student loan payments. Although not fully calculated, the consequences for Maine's economy would be significant.

Allowing Private Lawsuits Against Servicers is a Reasonable Solution

LD 1645 would not allow borrowers to sue the state or federal

government. It would not prevent the Attorney General from suing a student loan servicer. It would not prevent a regulatory agency from imposing penalties on a servicer that violates its duties to borrowers.

It simply provides a mechanism through which borrowers and co-signers harmed by student loan servicers may be made whole and gives them the power to ensure that the protections of this bill are fully enforced.

For the foregoing reasons, Maine Equal Justice strongly urges you to vote *ought to pass* on LD 1645.

Thank you for giving me the opportunity to testify. I welcome questions.