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March 19, 2018

The Honorable Thomas M. Middleton
Chair
Finance Committee
Miller Senate Office Building, 3 East
11 Bladen Street
Annapolis, MD 21401-1991

RE: Senate Bill 1068 -- SUPPORT

Dear Chair Middleton:

I applaud the Finance Committee's approval of SB1068, implementing most of the unanimous recommendations of the Financial Consumer Protection Commission, and encourage the full Senate to pass the bill without further amendments that weaken the protections that it provides Maryland consumers. The bill, as amended, reflects the hard work of the Committee, as well as stakeholders and members of my office who were able to reach areas of common ground that will protect consumers in light of the troubling rollbacks at various federal agencies.

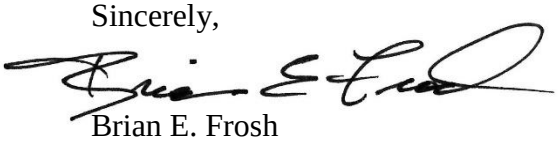
One of the most important sections of the bill would protect student loan borrowing,. Those provisions are due to widespread problems in the student loan servicing sector and are in place or under consideration in 15 states. Many consumers have reported that servicers fail to provide a basic level of service, including complaints about lost paperwork, misapplied payments, failure of servicers to correct their mistakes, and other practices that can create obstacles to repayment, raise costs, cause distress, and drive struggling borrowers to default.

Contrary to assertion by some in the industry, the recent US Department of Education notice does not preempt Maryland from regulating student loan servicers. There are four reasons for this: (1) The Department's letter does not have the legal weight of a rule or a statute, and is merely the Department's current opinion about the Higher Education Act ("HEA"), which has been in existence since 1965; (2) Never before has the Department believed that state laws are preempted by the HEA and, in fact, the Department of Education's Office of General Counsel wrote to Maryland's Commissioner of Financial Regulation in 2016 to clarify that a proposed law regulating student loan servicers as collection agents would not be preempted by federal law; (3) Each of the federal student loan servicers has a clause in their contracts with the federal government stating that they must comply with state law; and, (4) Servicers of private (non-

federal) student loans would never be preempted by the HEA. For these reasons, the Department's recent notice is nothing more than Secretary DeVos' attempt to help servicers avoid responsibility for their harmful conduct at the expense of consumers, and it does not provide a sound legal basis for this proposed bill to be preempted.

This is not a belief I hold alone. Last year, I signed a bipartisan letter with 25 other Attorneys General explaining why state laws are not preempted by the HEA and asking the Department not to issue the notice that it recently did. Also, on March 12, 2018, the National Governors Association issued a similar statement opposing the Department's action because it "runs counter to the principles of collaborative federalism" and asked the Department "to collaborate with states to protect students."

Sincerely,



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