



**Written Testimony of Alexis Goldstein  
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New Jersey Senate Committee on Higher Education**

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Americans for Financial Reform writes in support of S. 2358. AFR is a coalition of more than 200 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups. As a coalition formed in the wake of the subprime mortgage crisis to lay the foundation for a strong, stable, and ethical financial system, AFR is highly attuned to the problems created by the ongoing student debt crisis, with outstanding student debt surpassing \$1.5 trillion and over 8 million borrowers in default. We believe that S. 2358 would make significant strides in consumer protection in New Jersey.

In New Jersey and across the nation, millions of people each year seek to continue their education after High School because they want to build a better future for themselves, their families and communities. Unfortunately, public funding cuts, rising costs of living and the residual effects of the 2008 financial crisis have made it nearly impossible for most families to avoid taking out loans to pay for school. As a result, over 250,000 New Jersey residents currently hold \$9.1 billion in private student loan debt.

Having the debt is bad enough, but private student loans are typically riskier for borrowers than federal student loans, as they often carry less favorable terms and contain fewer protections when borrowers face financial distress. The lack of borrower safeguards is particularly concerning given the prevalence of predatory loans made by failed for-profit college operators. Private student loans are then often sold and resold using practices that mirror the worst aspects of the crisis-era mortgage market.

S. 2358 will end many of the most troubling abuses in the private student loan market, including abuse of cosigners' rights, robo-signing, auto-defaults, and predatory loans made by for-profit schools. With this legislation, New Jersey student loan borrowers will have the most

comprehensive set of protections in the country, regardless of which type of student loan they owe.

### **Protections for Private Student Loan Cosigners**

Older consumers are the fastest growing segment of student loan borrowers. As of 2011, over 90 percent of undergraduate private student loans were cosigned. One of the most common issues faced by borrowers with cosigned loans is the inability to obtain cosigner release. 2015 data from the CFPB shows that student loan servicers rejected 90% of borrowers who applied for cosigner release. S. 2358 will mandate more robust disclosures, prevent lenders from imposing restrictions that would permanently bar borrower qualification for cosigner release, bar lenders from requiring more than twelve months of consecutive, on-time payments for cosigner release, and grant borrowers appeal rights when a lender denies a request for cosigner release. Additionally, private student loan servicers would be required to provide cosigners with access to all documentation and records related to the cosigned loan.

### **Allows the Discharge of Loans for Borrowers and Cosigners with Total and Permanently Disabilities**

Federal student loan borrowers are able to pursue discharges if they become totally and permanently disabled, private student loan borrowers and cosigners have no guaranteed right to discharge their debt. New Jersey can and should set clear standards to protect borrowers and their cosigners. This legislation would expand disability discharge requirements to protect severely disabled borrowers and their cosigners by mandating disability discharge options for all private student loans in the state. Lenders would be barred from attempting to collect a payment from a cosigner following notice of total and permanent disability of the cosigner or borrower.

### **Ends Robo-Signing and Abuse of the Courts**

During the 2008 financial crisis, mortgage servicers used “robo signing,” an egregious practice of using mass-produced documentation to file lawsuits against borrowers for debts that they often do not owe. This abuse has been replicated in the private student loan space, as unscrupulous private student loan companies have now brought hundreds of cases against New Jersey borrowers for unsubstantiated private student loan debt. The ban on robo-signing contained in S. 2358 will place the burden on creditors to certify the validity of debts to ensure

that creditors are not obtaining judgments against borrowers for time-barred or unsubstantiated debt.

### **Gives Borrowers a Private Right of Action**

Private student loan borrowers today have limited recourse against predatory private student finance companies under federal consumer protection laws. While federal law has banned financial services companies from engaging in abusive acts and practices, it does not give consumers the right to enforce these laws directly. A private right of action is essential to provide borrowers and cosigners the ability to directly bring suit against bad actors for abusive lending, servicing, and debt collection practices. This legislation creates a strong private right of action which empowers borrowers to bring lawsuits to hold predatory student finance companies accountable for abusive acts and practices.

In addition, S. 2358 also works to protect New Jersey's private student loan borrowers by banning the use of auto-defaults in private student loans and allowing private student loan borrowers to bring class action lawsuits. There are important protections that will go far in protecting families from unexpected loan defaults and debt collection, and empower borrowers to bring an action against the lender or servicer for restitution and damages. The legislation also closes loopholes that allow specialty lenders to operate in the shadows, bolster predatory loan programs like the private financing options often offered by for-profit colleges, and prey upon vulnerable borrowers. For these reasons, AFR stands in strong support of S. 2358.

For three years now, the Trump Administration and Education Secretary Betsy DeVos have pulled back protections for student loan borrowers and enabled a dysfunctional student loan industry at every opportunity. While the federal government turns its back on students, New Jersey can and should step up to ensure protections for private student loan borrowers. The New Jersey Senate must act to ensure that everyone can successfully navigate the burden of education debt.

For these reasons, we strongly support S. 2358 and urge an AYE vote.

Sincerely,

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