



The Bell Policy Center

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Private Lenders of Student Loans Acts & Practices (SB 21-57)

Testimony to House Education Committee

Laura Valle Gutierrez, Senior Policy Analyst • May 27, 2021

Thank you for this opportunity to submit written testimony on behalf of [SB21-57](#). My name is Laura Valle Gutierrez, and I am the senior policy analyst at the Bell Policy Center. The Bell Policy Center provides policymakers, advocates, and the public with reliable resources to create a practical policy agenda that promotes economic mobility for every Coloradan.

For many Coloradans, pursuing a postsecondary credential is an intergenerational investment. Parents bet on their children, and students bet on themselves and their ability to provide for their families, in the short- and long-term, through higher education. As the costs of postsecondary education have risen, more and more families, especially families who lack intergenerational wealth or savings, have needed [to turn to student loans to be able to pursue postsecondary education](#). About 14 percent of all borrowers are using private loans. While most of these borrowers (17 percent) are white, Black borrowers (7.5 percent) are four times as likely to default.

Regardless of where a student receives their loan from, whether a private lender or the federal government, basic consumer protections are critical to help prevent predatory practices that can derail entire lives. This is particularly important in Colorado, since as a state, [we disproportionately rely on tuition revenue to fund our institutions of higher education](#).

In order for Colorado to remain competitive in the national economy, and to help reduce equity gaps in education and workforce outcomes, higher education is still the best vehicle we have to address these needs. [Yet, high amounts of student debt reduce the return on investment of a postsecondary credential, since increasing debt reduces net wealth](#).

A report released by the Bell, [“Economic Mobility for Colorado’s Low-Income Families,”](#) troublingly finds a growing number of Coloradans with a postsecondary credential are considered “low income.” For these communities, investments in higher education aren’t translating to upward mobility.

Your support for SB21-57 would not only help equity but would also help preserve the value of postsecondary education. It would help ensure where someone receives a student loan from doesn’t determine the types of consumer protections they receive. Furthermore, over [90 percent of private loans are cosigned](#). SB21-57 would help protect whole families by providing cosigners more information about loan terms and access to records related to the loans they have cosigned, furthermore it allows for cosigner release in certain conditions. These commonsense protections are an important first step to ensuring that people can continue to realize greater economic opportunity through postsecondary education.

Thank you for your consideration, and I hope you will vote in support of this important bill.



STUDENT BORROWER
PROTECTION CENTER

**Prepared Testimony of Seth Frotman
Executive Director of the Student Borrower Protection Center
Before the Colorado House Education Committee
Denver, Colorado
May 27, 2021**

SB21-057: In Favor

Chairwoman McLachlan, Vice Chairwoman Young, members of the committee, thank you for the opportunity to testify today as Colorado once again leads the nation in the fight to end the student debt crisis.

In 2019, this committee took the critically important step of passing a Student Loan Borrower Bill of Rights. Now under law, Colorado borrowers know that their state has their back. Student loan companies can no longer rip off citizens of this state without repercussions. Borrowers have a place to turn within their own state government for essential information and advice. And most importantly, because of the actions taken by this committee, borrowers in this state have the power to pursue justice when they have been wronged by predatory servicing practices.

But the work is not yet done.

Today, 140,000 Colorado residents owe more than \$2 billion in private student loans—loans made by private lenders without the involvement of the federal government. These loans are often peddled by predatory for-profit college operators and small lenders that operate in the shadows—using deceptive bait-and-switch tactics that leave borrowers with little to no safeguards when things go wrong. And unfortunately, things often do go wrong. For example:

- Consider the borrower from North Denver, whose private student loan balance increased by \$2,100 after it was sold to another company. The borrower never received any explanation or notification of this change.
- Or consider the borrower from Colorado Springs who tried to navigate the lender's disability discharge process, only to have the lender claim to repeatedly lose the



borrower's paperwork and deny the discharge, despite also issuing the borrower a 1099-C reflecting the discharged loans.

- Or consider the borrower who was struggling during COVID and reached out to his student loan company after the company publicly promised to offer relief to borrowers. However, after speaking with the customer service representatives, the borrower was told his balance was too high to receive a temporary payment modification.
- Or consider the borrower from Longmont who was being illegally pursued in court for time-barred debt. And it was only once the borrower pointed out the illegal practices that the debt collector then offered to dismiss the case in exchange for releasing the collector from liability for its violations of law. Unfortunately, borrowers are rarely in a position to turn the tables on collection agencies like this borrower did.

And sadly, these are only a few of countless examples of private student loan borrowers struggling all across the state. Now, as the economy grapples with the fallout of the coronavirus pandemic, we are already seeing predatory lenders pull from the same playbook they used in 2008—targeting vulnerable students into taking out loans designed to fail. And unfortunately, these borrowers have been left out of any relief from Washington and still desperately need help.

This legislation from Senators Winter and Gonzales and Representatives Gray and Gonzales-Gutierrez would fill critical gaps in consumer protection law. For example:

- Older borrowers have been repeatedly denied key protections like disability discharge and access to payment relief when living on a fixed income. This legislation sets new standards for the servicing of cosigned private student loans by mandating a process for disability discharge, requiring servicers to apply payments from cosigners only to the cosigned loans, and establishing new standards for customer service representatives to provide assistance to older student loan borrowers.
- The specialty private student lenders that prop up the most predatory schools thrive on their ability to operate in the shadows, away from regulatory and public scrutiny. This legislation establishes critical transparency through a registry of lenders, mirroring



requirements in place for consumer lenders in states across the country. As part of this registry, companies operating in the state are required to report key metrics about new student loan originations, giving Colorado critical insight into the disparate impact of lending practices across the student loan market.

- Unscrupulous collectors abuse this state's court system, exploiting loopholes that allow companies to pursue judgments for debts they do not even own. Through practices like dual tracking and robo-signing, these predatory companies target borrowers living in Colorado's most vulnerable communities as they seek to replicate the worst practices of the mortgage crisis. This legislation will end this practice by ensuring collectors can only pursue judgments when they can prove they own the debt and have already explored available workout options with the borrower.

For decades, nonbank financial companies have run roughshod over student loan borrowers simply because those people chose to pursue a better life for themselves and their families. The legislation before you today creates protections for hundreds of thousands of borrowers across this state—your neighbors, your constituents—who took on debt to chase the American Dream, only to be misled and deceived by companies that exploit the lack of protections in this market. They need you to step up and lead once again.

Last session, this state—this committee—pushed back. In fact, this year, nearly a dozen states are slated to follow Colorado's bold lead in establishing state-level rights for student loan borrowers. And now, Colorado has the opportunity to once again stand up for borrowers—in particular, Colorado can champion the borrowers who have been repeatedly left behind and ignored by federal efforts to provide relief and protections. As the coronavirus pandemic continues, time is of the essence—private student loan borrowers urgently need these protections and Colorado must have the tools necessary to take action.

Colorado must continue the fight to protect borrowers.

Thank you.

My name is Noelle Trueheart. I am here to tell my story in hopes that the impact it's left on my life may give you valuable perspective on the damage that is being done by predatory lenders to exploit young people like me.

In pursuing my second bachelor's degree in education, my federal loans cut me off at a certain point. I jammed my semesters full with credits hours, at times taking up to 26 credits per semester, so I would only need 2 years worth of loans instead of 4. This left no time for even part-time work to support myself while earning my degree; my only choice was to take out a private student loan to get by. Had I known the extent of the damage this would have on my life, I certainly would have dropped out. But I was determined to finish the degree, a decision which I am very happy with. And now I am paying. And paying. And paying for it.

As a low-income single parent, I struggle to make my monthly payments. I went back and forth with my lender to try to find out the truth of what my options are for lowered repayment, and finally was given a monthly payment that is still too high for my income but I'm told is the lowest they can go. At times I've been forced to make a choice between feeding my family and making my payments, and I chose my family. There have been a few months where I was only able to throw \$50 here and there towards my balance in order to maintain good standing, but was unexpectedly hit with inflated monthly payments afterwards, because of additional interest accrued during those months. During COVID, they offered several months of disaster forbearance, but in that time, interest accrued at disproportionate rates that significantly raised my monthly payments after the forbearance period ended. After accepting their disaster forbearance offer out of necessity, my monthly payments are now sky-high and wildly unfeasible, theoretically for the next 25 years. 25 years from now, I will be 60 years old.

Financial advisors have counseled me to stay on top of these payments under all circumstances for better or for worse, because any single month of delinquency can gut my credit and ultimately snowball into me being sued by my lender. I am currently starting a business with 2 partners. This is my chance to finally transcend the vicious cycle of poverty. Should we apply for a small business loan at any point, the grave impact of this private student loan on my credit will likely disqualify us from being financed. In year 1 of this business, income will be slim, and I dread to think of the extended havoc that my lender will wreak upon my life when things are too tight to pay in full every month.

This bill would be a starting point for leveling the playing field for private borrowers like me. Instead of chasing down the information I needed about better repayment options, I could've had that information up front to begin getting a handle on my loans earlier. It would protect Coloradan borrowers from the lasting damage of ill-intended offers like the disaster forbearance in my case. I have every intention of paying down my debts, but I can't do it without a fair shot. This bill is one step toward regulating the private loan industry that's gone unchecked for so long.

Please support Private Lenders of Student Loans and Practices in order to protect Coloradans from being punished by private lenders for pursuing a higher education. Thank you for listening.

My name is Fabian Laguna, I'm a student at CU Denver and I'm president of UCD Student Government. I'm here today to talk about the impact that private student debt has on my friends and peers that I represent as a student leader.

Most of my friends have so much debt that it can feel difficult for them to imagine what their futures are like because it's likely that their debt will stay with them for decades. The debt that these loans create really hinders one's ability to dream about the future, and limits the choices people can make, which holds our entire state back. **If you had so much debt that you could not even imagine when you would pay it off, then how would that influence your dreams?** The student debt crisis is even worse for borrowers with private student loans- these borrowers experience even higher interest rates, harsher terms of repayment, and lack the protections and relief that federal borrowers receive. And worst of all - they may not even realize this when they're taking out their loans. I recently heard from a friend how confusing he found the process of funding his tuition, and it's clear to me that the impacts of private loans are purposely obscured from borrowers. Today I ask myself, **how is this possible?**

In Colorado, there are billions of dollars owed in private student debt. Many of these borrowers **are my classmates, friends, and some of them even serve with me in student government.** People took out loans with an idea in mind of what the world would look like upon graduation and what opportunities there would be. We now have a global pandemic; job prospects have never been more uncertain, rent has never been higher, and the future looks bleak. Clearly this is a serious crisis. When it's time to pay back their loans, they should be able to navigate the process in a fair and transparent way, but unfortunately that's not the case for many borrowers who face difficulties with repayment. The impacts of missed payments are severe and long term, especially if they go into default. **We need to help each other more, we need to stop being so selfish, and take care of our people.**

It is imperative that we give consumers regulatory protections from private interests, whose practices tend to compound existing structures of systemic racism. Borrowers deserve clear, upfront information about their payment options. They deserve options when they are unable to repay their loan due to disability. Co-signers, many of them aging parents, deserve financial safety and security. No one should have to endure predatory practices like auto-defaulting, especially during a worldwide economic collapse due to a pandemic. These protections are important tools to consider if we truly wish to live in a nation where all people are created equal.

It's like we are facilitating future generations to make a deal with the devil, so to speak. Our state can take this first step to help protect private borrowers; it is the least we can do to help remedy the damage that is being done. I strongly urge you to support SB21-57.

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STATE OF COLORADO
DEPARTMENT OF LAW

First Assistant Attorney General Martha Fulford
Testimony on Senate Bill 21- 057
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Colorado State Senate
- May 27, 2021 -

Members of the Committee, thank you for allowing me to express my support for Senate Bill 21 – 057. Thank you to the sponsors, Representatives Gonzales-Gutierrez and Gray, as well as Senators Gonzales and Winter for bringing this bill forward. I write on behalf of the Attorney General in support of SB 21-57.

SB21-057 is an important bill that will enable better regulation of the private student loan industry and protect student loan consumers. The bill makes valuable additions to the Colorado Student Loan Servicer Act that will allow the Department of Law to regulate the private student loan industry efficiently and fairly.

My office is currently regulating student loan servicers pursuant to the 2019 Colorado Student Loan Servicer Act. We license student loan servicers, conduct supervisory exams, and investigate consumer complaints. The bill provided for a Student Loan Ombudsperson to assist borrowers, analyze complaint data, advise policymakers and provide education to borrowers. SB21-057 will allow us to expand this ongoing work to further protect student loan borrowers.

First, SB21-057 will require certain private student loan lenders, to register with the Administrator before offering or making student loans to Colorado residents. The registration requirement will require lenders to share information including the schools their borrowers attend, the volume of loans, and their loan default rate. The Administrator will make information available on a public website. This registration process will increase transparency for consumers, who can use this information to choose their lender, as well as enable the Department of Law to better regulate the industry.

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Second, SB21-057 will increase protections surrounding options for co-signers on student loans. This element of the bill will require lenders to notify co-signers about how the loan will impact their personal credit and eligibility for the release of the cosigner's obligation. SB21-057 will also obligate a lender to provide annual written information to the co-signer and borrower about cosigner release from the loan. The CFPB has previously [highlighted issues](#) borrowers encounter with co-signer releases, including finding in a 2015 report that 90 percent of private student loan borrowers who applied for co-signer release were rejected.

Additionally, the bill expands disability discharge so that a borrower or co-signer may be released if totally and permanently disabled. The total and permanent disability discharge will prevent veterans with a service-connected disability or individuals who have faced a life-altering diagnosis from being tied to student loans they may never be able to repay. We joined a [letter](#) urging the U.S. Secretary of Education and Social Security Commissioner to automatically discharge federal loans for civilian borrowers and many of these borrowers may have private loans that would benefit from the protections of SB21-057.

Finally, SB21-057 will provide legal recourse for student loan consumers who have been victims of inappropriate debt collection practices. This bill Prohibits "robo-signing" of documents used in collection lawsuits and requires specific evidence of loan origination and chain of ownership of the debt before a loan creditor or collection agency may commence legal proceedings. The CFPB has [previously sued](#) entities for collection practices including suing on private student loans that companies couldn't prove was owed.

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SB21-057 will further the Department of Law's ongoing efforts to fairly regulate the student loan industry by increasing transparency and protections for private student loan consumers. I ask for your support on SB21-057.

Thank you,
Martha Fulford

First Assistant Attorney General
UCCC Administrator