



July 11, 2025

The Honorable J. Luis Correa  
U.S. House of Representatives  
Washington, D.C. 20515

**Re: NACBA's Support for the Student Loan Bankruptcy Improvement Act of 2025**

Dear Congressman Correa:

On behalf of the National Association of Consumer Bankruptcy Attorneys (NACBA), I am writing to express our strong support for the *Student Loan Bankruptcy Improvement Act of 2025*. As the leading national organization dedicated to serving the needs of consumer bankruptcy debtors, NACBA applauds this vital legislation that restores fairness and access to justice for millions of struggling student loan borrowers.

For decades, the “undue hardship” standard, particularly as interpreted under the *Brunner* test, has presented an insurmountable barrier for borrowers seeking a fresh start through bankruptcy. First adopted in 1987, the *Brunner* test was born in a vastly different era when the average borrower owed just over \$5,200 in student loans<sup>1</sup>. Today, that number has climbed to over \$37,000<sup>2</sup>—more than a sevenfold increase, not accounting for inflation—further highlighting how the current bankruptcy standard is out of touch with modern financial burdens. The sheer magnitude of the student debt crisis has rendered the current standard not only outdated, but unjust.

When Congress began limiting student loan dischargeability in the late 1970s and 1980s, lawmakers could not have anticipated the dramatic increase in loan balances or the structural shifts in higher education financing. The “undue hardship” requirement, as enforced through the *Brunner* test, has become nearly impossible to meet, so much so that only 0.01% of borrowers are successful in discharging their loans through bankruptcy.<sup>3</sup> The test’s outdated framework reflects 1990s-era legal reasoning that failed to foresee the long-term implications of locking borrowers into unrelenting debt.

The proposed legislation takes a crucial step toward correcting this error by amending Section 523(a)(8) of Title 11 of the U.S. Code to remove the term “undue.” In doing so, it allows courts to evaluate hardship under a more reasonable and equitable standard, reflective of today’s

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<sup>1</sup> College Board. *Trends in Student Aid 2000*, based on U.S. Department of Education data.  
<https://research.collegeboard.org/pdf/trends-student-aid-2000.pdf>

<sup>2</sup> Education Data Initiative. “Average Student Loan Debt,” 2025. <https://educationdata.org/average-student-loan-debt>

<sup>3</sup> Jason Iuliano, “An Empirical Assessment of Student Loan Discharges and the Undue Hardship Standard,” *American Bankruptcy Law Journal*, Vol. 86, No. 3 (2012).  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1786314](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1786314)



economic realities and consistent with the original purpose of bankruptcy—to provide honest debtors with a path to financial recovery.

Moreover, the need for this reform is desperate and growing. As of June 2025, more than six million federal student loan borrowers are over 90 days delinquent, many teetering on the edge of default.<sup>4</sup> These individuals face cascading financial consequences, from damaged credit to wage garnishment, without access to meaningful legal relief. The *Student Loan Bankruptcy Improvement Act* would help restore a measure of justice to these borrowers by allowing courts to provide relief when warranted, based on a fairer, modern standard.

Critically, the bill preserves essential safeguards already in place to ensure that only those borrowers without any meaningful ability to repay their student loan, such as means testing, limits on retention of assets and the oversight mechanisms enacted through the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, while giving bankruptcy judges the flexibility they need to administer justice on a case-by-case basis. These serious constraints, together with the stigma of bankruptcy, will minimize the moral hazard of borrowers unnecessarily seeking relief.

NACBA enthusiastically supports the *Student Loan Bankruptcy Improvement Act* and stands ready to assist in advancing this urgently needed legislation. We thank you again for your leadership and commitment to protecting vulnerable borrowers and restoring integrity to the bankruptcy system.

Please do not hesitate to contact us if we may be of further assistance.

**Sincerely,**

Richard Nemeth  
President  
National Association of Consumer Bankruptcy Attorneys (NACBA)

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<sup>4</sup> Federal Reserve Bank of New York, *Quarterly Report on Household Debt and Credit*; U.S. Department of Education, *Federal Student Aid Data Center*. <https://www.newyorkfed.org/microeconomics/hhdc>