



One West Main Street, Suite 200 ♦ Rochester, NY 14614
Phone 585.454.4060 ♦ Fax 585.454.2518
www.empirejustice.org

Memorandum of Support

Enacts into Law Major Components of Legislation Relations to Student Loan Servicers and Student Debt Relief Consultants

Article VI Budget Legislation, Part W, Subpart A

Empire Justice Center strongly supports Article VI Budget Legislation, Part W, Subpart A, which provides basic protections regarding the servicing of student loans in New York State. This bill creates a framework for the Department of Financial Services (DFS) to license, supervise and examine student loan servicers and prescribes basic rules of conduct. Student loan servicing has generally gone unregulated in New York State, and confusion about student loans is common among borrowers, in part because there are no common rules. This bill would set a baseline level of procedures and protections to provide common sense notice and protections for borrowers.

Student lending is in crisis in New York State. According to the Consumer Federation of America, more than 42 million Americans owe at least \$1.3 trillion in student loan debt and \$137 billion of that debt is in default.ⁱ In New York alone, student loan debt more than doubled during the last decade, growing to \$82 billion, with an average outstanding balance of \$32,000.ⁱⁱ Student loan servicers, which are the primary links between lenders and borrowers, have the power to either help borrowers remain current on their accounts or allow them to fall into default.

Unlike mortgage loan servicing, there have been no requirements or standards for servicing of student loans in New York State. This leads to confusion and uncertainty for borrowers, and ultimately causes more borrowers to fall behind and default on their loans. In addition, a lack of meaningful regulation leaves the door open for bad actors in the industry to take advantage of borrowers. This bill prescribes very basic protections, including mandating payments are properly applied, requiring clear notice when servicing is transferred, requiring fair communication with borrowers, and prohibiting unfair and deceptive practices.

There currently is no licensing requirement for student loan servicers in New York State. This bill sets forth a simple licensing process for servicers and brings them under the oversight of the New York State Department of Financial Services. DFS will be enabled to examine and investigate student loan servicers to ensure that they are following the rules, acting properly as a business servicer and are not deceiving borrowers. It also mandates servicers maintain records, ensures consistency in treatment of borrowers among servicers and ensures consistency when loan ownership is transferred from one servicer to another.

This bill addresses and resolves the most common problems student loan borrowers face. Borrowers are often provided misinformation by their servicers regarding available relief. They are not told about income-driven repayment plans, closed school discharges and disability discharges, but rather are pushed into forbearance agreements that ultimately lead them to default rather than resolution. Servicers also often fail to provide accurate account information and records to borrowers, leaving borrowers in the dark regarding the status of their loans and repayment.

It is imperative that states act to protect their citizens regarding student loans. Connecticut, California and the District of Columbia have enacted bills addressing various abuses in student loan servicing that frustrate borrowers from paying off their student loans. Other states, including Maine, Illinois and Washington are also advancing student loan servicing legislation. New York has been at the forefront of consumer protections in the mortgage servicing industry and now must do the same to provide protections for student loan borrowers. Article VI Budget Legislation, Part W, Subpart A is a critical step to providing very basic protections for student loan borrowers.

Empire Justice Center strongly supports this legislation and urges its immediate passage.

This memorandum was prepared by:

Kirsten E. Keefe, Senior Staff Attorney

(518) 462-6831

kkeefe@empirejustice.org

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ⁱ Consumer Federation of America, New Data: More Than 1.1 Million Federal Student Loan Defaults in 2016, March 14, 2017, *available at* http://consumerfed.org/press_release/new-data-1-1-million-federal-student-loan-defaults-2016/.

ⁱⁱ Office of the State Comptroller, Student Loan Debt in New York State, 1, September 2016, *available at* https://www.osc.state.ny.us/reports/highered/student_loan_debt.pdf.