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Memorandum of Support

**Empower the Superintendent of the Department of Financial Services (DFS) to License and Regulate Student Loan Servicers
Transportation, Economic Development and Environmental Conservation
Article VII Budget Legislation, Part L (A2008/S1508)**

Empire Justice Center strongly supports this Article VII Budget Legislation, Part L 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. These provisions are essential because 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 to provide common sense notice and protections for borrowers.

Due in large part to the lack of regulatory oversight, student lending is in crisis in New York State. According to the Student Borrower Protection Center, there are 2,356,200 student loan borrowers, owing \$90.6 billion in outstanding debt in New York. The average student loan debt load is \$38,477. Almost 12% of all borrowers are in default in our state (275,675), with a total outstanding delinquent debt balance of \$8.3 billion.¹ 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. It is time for New York to ensure that they do the former, not the latter.

In addition, a lack of meaningful regulation leaves the door open for bad actors in the industry to take advantage of borrowers. This is addressed in the bill through protections including mandating that payments are properly applied, requiring clear notice when servicing is transferred, requiring fair communication with borrowers, and prohibiting unfair and deceptive practices.

¹ Student Borrower Protection Center, available at: <https://protectborrowers.org/state/new-york/>.

The bill also sets forth a simple licensing process for servicers and brings them under the oversight of DFS. The bill enables DFS 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.

Furthermore, the 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 New York acts now to protect our students 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 VII Budget Legislation, Part L is a critical step to providing very basic protections for student loan borrowers.

Empire Justice Center strongly supports this legislation and urges both houses to support its inclusion in the enacted budget.

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