

MEMORANDUM IN SUPPORT OF
ARTICLE VII BUDGET LEGISLATION, TED PART W, SUBPART A
STUDENT LOAN SERVICERS

February 12, 2018

BUDGET PART: Article VII Budget Legislation, TED Part W, Subpart A

TITLE OF ARTICLE: STUDENT LOAN SERVICERS

STATEMENT OF SUPPORT: Pratt Area Community Council, Inc. dba IMPACCT Brooklyn supports TED Part W, Subpart A of the Proposed Budget, which will help New York protect student loan borrowers from common abuses in the student loan servicing industry. Student loan borrowers have basic rights that need to be protected from unfair and deceptive servicing practices, just as homeowners enjoy mortgage servicing protections and standards. In order to protect these rights, New York must fill the void in oversight of these unregulated, non-bank entities. We believe that this proposal, coupled with the Governor's Excelsior Scholarship, will demonstrate that New York is the nation's leader in addressing the student debt crisis.

New York State has a long tradition of leading the way on consumer protection, and student loan servicing is an issue that is ripe for state action. The nation faces a crisis right now, as more than 42 million Americans owe at least \$1.3 trillion in student loan debt and \$137 billion of that debt is in default.¹ In New York alone, student loan debt more than doubled during the last decade, growing to \$82 billion, with an average outstanding balance of \$32,000.² Student loan servicers, who are the primary links between lenders and borrowers, often have the power to either help borrowers remain current on their accounts or allow them to fall into default. Precisely because of this essential role, and the reasons listed below, we must ensure basic rights for borrowers repaying student loans:

1. *Studies show that servicers routinely fail to tell borrowers about available relief, including income-driven repayment plans and disability discharges, and instead allow borrowers to fall into default, resulting in garnishment, tax seizures, and other hardships. A study by the Government Accountability Office (GAO) found that 70 percent of borrowers in default actually qualified for a lower monthly payment through income-driven repayment plans that cap monthly payments at a percentage of earnings, yet servicers failed to provide sufficient information for borrowers to enroll.*³

¹ 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/.

² 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.

³ United States Government Accountability Office, Report to Congress, Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options, 13, August 2015, *available at* <https://www.gao.gov/assets/680/672136.pdf>.

2. *Borrowers report that servicers provide inaccurate information or actively obstruct relief when borrowers apply for an income-driven payment program, instead pushing them into temporary forbearance and deferment options, which ultimately work against the borrowers' best interests.*⁴
3. *Borrowers find that loan servicers are unable to provide accurate information or records.*⁵
4. *Despite their vital role in the lives of more than 42 million student loan borrowers and in managing an estimated \$1.3 trillion dollars in student loans, **there is currently no federal supervision of student loan servicers.** In her short time as Secretary of Education, Betsy DeVos has acted quickly to rescind the Obama administration's efforts to set reasonable and consistent standards to protect borrowers.*⁶
5. *When New Yorkers with student loans are made award of affordable repayment options, they will have more disposable income to support themselves and their families, purchase homes, and contribute to local and statewide economies.*⁷
6. *States are beginning to take action to protect student loan borrowers. Connecticut, California, Illinois, and the District of Columbia have stepped up and enacted bills addressing various abuses in student loan servicing that prevent borrowers from paying off their student loans. Other states, including New Jersey, Maryland, Virginia, Maine, Massachusetts and Washington are also advancing student loan servicing legislation.*

The budget proposal is an important step towards reigning in rampant student loan servicing abuses. It will help New York's student loan borrowers make better decisions about loan repayment and fill the gap in federal loan servicing standards and. The proposal's provisions include:

- Prohibiting servicers from various common unfair, deceptive, and misleading tactics;
- Licensing and regulating student loan servicers who service the loans of New York residents;
- Creating strong standards for the retention of records and continuing borrower benefits, in the event of sale, assignment, or other transfers; and
- Subjecting student loan servicers to possible examination by the DFS Superintendent

Pratt Area Community Council, Inc. dba IMPACCT Brooklyn urges you to the support Article VII Budget Legislation, TED Part W, Subpart A and protect New Yorkers from unfair, deceptive and predatory tactics by student loan servicers.

⁴ Consumer Financial Protection Bureau, Student Loan Servicing, Analysis of Public Input and Recommendations for Reform, 25, September 2015, *available at* http://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf (hereinafter "Student Loan Servicing").

⁵ *Id.* at 64-66; 69.

⁶ Douglas-Gabriel, Danielle, *DeVos Dials Back Consumer Protections for Student Loan Borrowers*, WASHINGTON POST, April 11, 2017, *available at* https://www.washingtonpost.com/news/grade-point/wp/2017/04/11/devos-dials-back-consumer-protections-for-student-loan-borrowers/?utm_term=.105f3416385b.

⁷ *See*, Office of State Comptroller, *supra*, at 9.