



MEMORANDUM IN SUPPORT OF
ARTICLE VII BUDGET LEGISLATION, PART W, SUBPART A

February 2, 2018

STATEMENT OF SUPPORT: Young Invincibles supports Article VII Budget Legislation, Part W, Subpart A, which will enhance and strengthen state oversight over student loan servicing in New York State. The bill creates a framework for the Department of Financial Services (DFS) to license, supervise, and examine student loan servicers, which are currently unregulated. In light of the enduring student loan crisis--which student loan servicers have abetted and profited from--it is critical for the New York State legislature to stand up and protect student loan borrowers.

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 is currently facing a crisis, 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, 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. As explained below, because that power is unchecked and servicers often do not have borrowers' best interests in mind, it is imperative that DFS license and regulate student loan servicers:

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,

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.

yet servicers failed to provide sufficient information for borrowers to enroll.³ Servicers benefit financially from this tactic to the detriment of borrowers.⁴

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.*⁵
3. *Borrowers find that loan servicers are unable to provide accurate information or records.*⁶
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 swiftly rescinded the Obama administration's efforts to set reasonable and consistent standards to protect borrowers.⁷ She has also decided to hand the lucrative \$1.3 trillion student loan industry over to a single, unregulated entity.⁸ It is very likely that this profitable contract will go to a company such as *Navient*, which was recently sued for the exact misconduct that this legislation is designed to prevent.⁹
5. *States are beginning to take action to protect student loan borrowers.* Connecticut, California, and the District of Columbia have stepped up and 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.

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>.

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

⁵ *Id.*

⁶ *Id.* at 64-66; 69.

⁷ Cowley, Stacy and Jessica-Silver Greenberg, *DeVos Halts Obama-Era Plan to Revamp Student Loan Management*, NEW YORK TIMES, April 14, 2017, *available at* <https://nyti.ms/2nNpNqK>.

⁸ Douglas-Gabriel, Danielle, *Betsy DeVos hits hard reset on student loan servicing contracts*, WASHINGTON POST, May 19, 2017 *available at* https://www.washingtonpost.com/news/grade-point/wp/2017/05/19/betsy-devos-hits-hard-reset-on-student-loan-servicing-contracts/?utm_term=.0809cc12dd4a.

⁹ Consumer Financial Protection Bureau, Press Release, CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment, *available at* <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

Article VII Budget Legislation, Part W, Subpart A will help reign in rampant student loan servicing abuses.¹⁰ The proposed legislation would fill the gap in federal loan servicing standards and help New York's student loan borrowers make better decisions about loan repayment. The bill's provisions include:

- Licensing and regulating student loan servicers who service the loans of New York residents;
- Prohibiting servicers from various common unfair, deceptive, and misleading tactics;
- 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 examination by the DFS Superintendent.

YOUNG INVINCIBLES urges you to support Article VII Budget Legislation, Part W, Subpart A and protect New Yorkers from unfair, deceptive and predatory tactics by student loan servicers.

If you have any questions, please feel free to contact Marissa Martin, Northeast Director at marissa.martin@younginvincibles.org.

¹⁰ Young Invincibles does, however, suggest that the Assembly and Senate remove the word “knowingly” from the prohibition in Sec. 719 (6) against making any false statement or omission of material fact in connection with any information or reports filed with a governmental agency. This would unnecessarily hamper the ability of DFS to ensure that servicers are providing the Department and other governmental agencies with accurate information.