Joint Hearing of the California
Assembly Select Committee on Youth and California's Future and
Assembly Banking and Finance Committee

"Student Loan Debt Crisis"

August 29, 2017

Chairman Ian Calderon (D-Whittier) and Chairman Matt Dababneh, (D-Woodland Hills) thank you for the opportunity to provide remarks today. My name is Graciela Aponte-Diaz, Director of California Policy for the Center for Responsible Lending (CRL). CRL is a non-profit, non-partisan policy and research organization dedicated to building family wealth through the elimination of predatory lending practices. Our sister organization, the Self-Help Federal Credit Union, provides access to safe, affordable financial services to low-income communities and borrowers through 18 branches from as north as Butte County down to San Diego. I have spent more than a decade working directly with low-income communities and working on state and federal policies to help communities of color build wealth.

Higher education is key to helping low-income families achieve financial security and build wealth. Unfortunately, there continues to be a decrease in financial aid available to students and at the same time, tuition costs continue to rise. This is causing students to take on more student loan debt, and this debt is skyrocketing. Worse, abuses in loan servicing have contributed greatly to the increase in debt. This debt not only impacts a borrower's monthly budget but also delays their ability to buy a home or start a business.

Today, I would like to provide the following information:

- First, a snapshot of student loan borrowers, nationally and here in California;
- Second, highlight major issues with student loan servicing; and
- Finally, I'd like to provide some policy recommendations for our state to ensure student loan borrowers are treated fairly when trying to repay their loans

Nationally, student loan debt has exploded in the last decade, with education borrowing outpacing all other consumer loan debt. Estimates now put outstanding student loans at about $1.4 trillion.[1] Approximately 40 million Americans have at least one federal student loan, up from 28 million in 2007.[2] CRL's analysis of the U.S. Department of Education data shows that 55% of students who borrowed money to attend undergraduate institutions were unable to make any progress in paying down their debt for the first three years.[3]

Student loan debt has a disproportionate impact on African American and Latino borrowers, and seniors.[4] According to a recent study by Economic Studies at Brookings, racial disparities in student debt are larger than previously understood, and have grown dramatically in recent decades. For example, four years after earning a bachelor's degree, African American graduates in the 2008 cohort held $24,720 more student loan debt than white graduates ($52,726 versus

$28,006), on average.[5] African American and Latino students enroll more frequently in for-profit colleges than white students. Repayment rates are weakest among students attending for-profit colleges, which is coupled with poor quality programs, often leaving students with crushing debt and no useable degree.[6]

According to reports by the GAO and CFPB, seniors are the fastest growing demographic sector of student loan borrowers, who are borrowing both for themselves and their spouses, and their children.[7] They are in trouble, from 2005 to 2015, the average debt owed by older borrowers doubled during this time period from $12,000 to $23,500.[8] Since 2015, nearly 40 percent of federal student loan borrowers aged 65 or older were in default, which can result in the garnishment of social security benefits.[9] For seniors that are on a fixed income, garnishment of their social security benefits can mean that little money is leftover to pay for basic needs like housing or food.

In California, 54% of college students graduate with student loan debt, according to the Prosperity Now Scorecard.[10] The average student loan debt per California borrower in 2014 was $26,891.[11] The most recent statewide data on loan default rates for California borrowers is from 2012. That year, there were 3.8 million people with outstanding student loan debt in California, and 17.7% of the total were severely delinquent or in default. The highest rate of default was among 40 to 49 year olds (20.9%).[12]

The result is dramatic for our residents and our economy. This exploding debt has resulted in borrowers delaying major life decisions, such as, starting a family, purchasing a home, starting businesses, and investing in retirement plans. As you can see this is extremely impactful for borrowers individually, but is critically important to our state and national economies.

And even as borrowers struggle to manage their mounting debt loads, the mechanisms designed to facilitate their repayment, loan servicing, are difficult to navigate and frequently are not functioning in the best interest of the borrower.

Failure to properly serve borrowers, has led to delinquencies, defaults, and an increase in outstanding student loan debt nationally. One of the many lessons learned from the foreclosure crisis is the importance of protecting against abusive loan servicer practices. Student loan servicers are a critical link between borrowers and the repayment of their loans. Servicers are charged with evaluating borrowers for income-based repayment programs, discharges, and other plans that can help them manage their monthly payments.

There are two types of student loans, federal and private. Federal student loans make up 90% of total loans.[13] Servicer issues include: lack of information on repayment plans, failure to properly apply payments, and failure to discharge debt. For federal loans, the government has extraordinary powers of collection. They can garnish wages, social security payments, and tax returns.

For private loans, borrowers are not eligible for any of the discharges, repayment programs, or protections provided by federal law. For these reasons, state level protections against abusive wage garnishment are critical. Some states go as far as not allow wage garnishment at all.

Here is one example of loan servicing abuses by the nation's largest student loan servicer, Navient, formerly part of Sallie Mae. Early this year, the CFPB sued the company for cheating borrowers out of repayment rights through shortcuts and deception.[14] The CFPB found that Navient failed to qualify borrowers for income-based repayment plans, adding an additional $4 billion dollars in outstanding student loan debt.[15] They also failed to properly discharge debt of disabled veterans, and failed to properly apply payments.[16] The response from the Navient CEO was "There is no expectation that the servicer will act in the interest of the consumer."[17] And this is exactly why states must act to ensure the best interest of students and servicer are aligned.

As far as federal policy, the Trump Administration is taking steps to roll back existing protections against student loan servicing abuses. In March of this year, the Department withdrew the servicing standards created by the Obama administration, which put in place safeguards against companies with a history of fraudulent and illegal practices.[18]

The Department has also focused on rolling back the Gainful Employment rule, which will mean more people indebted due to predatory for-profit colleges without good chances of being able to repay that debt. The Department is stalling on the Borrower Defense rule, meaning people who attended fraudulent for-profit colleges are in limbo as to whether they will have their debt discharged or not. All of this means more people struggling with student loan debt and the fewer protections against abusive practices that interrupt their ability to repay it.

Even as we speak, student loan servicers are urging the Department of Education to allow servicers, with whom the Department of Education contracts for servicing federal student loan debt, to ignore state law, such as what California has put in place. California must speak out and take steps to ensure this does not happen.

CRL has the following policy recommendations:

First, states can and must play a role to ensure that students are treated fairly when repaying their loans, and to prevent servicers from engaging in abusive practices that prolong the problems of mounting student loan debt.

Second, states can ensure these protections against abusive practices extend to non-bank servicers, such as Navient, as well as banks, such as Wells Fargo and Sallie Mae.

California has taken strides to enact important substantive protections. We are thankful to Assemblymember Mark Stone (D-Monterey Bay) for championing and passing the California Student Servicing Bill of Rights. This bill includes strong provisions that prohibit loan servicers from abusive practices including:

- Defrauding or misleading student loan borrowers
- Misrepresenting the loan amount, terms and conditions of the loan agreement, or the borrower's obligations under the loan
- Misapplying student loan payments to the outstanding balance of a student loan

The bill also includes a component on licensing and oversight by state regulators, and an ombudsman to handle complaints, collect data, and act as an intermediary between borrowers and their servicers.

However, the CA bill has major loopholes for for-profit schools and banks.

Banks are exempted from complying with the prohibited acts section of our law, unlike Connecticut which does extend its prohibited acts section to banks servicing student loans. The for-profit exemption is that private loans made by for-profit colleges to students who don't graduate are not covered by student loan servicing protections in these bills. Ironically, these are the student borrowers most at risk of default. We urge California to close both of these loopholes.

In addition, states should take particular care to ensure servicers comply with existing protections for older Americans seeking to repay their loans, such as ensuring services assess if a senior is eligible for an income-based repayment program once they retire and have less income; notify seniors that rely on Social Security disability that they may be able to fully discharge their loan, and notify seniors about when and how they can remove themselves as co-signers to these loans.

Once again, thank you for the opportunity to provide remarks on this important matter.

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[14] “CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment.” Consumer Financial Protection Bureau. January 18, 2017. Accessed August 28, 2017. https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.
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