Maryland Consumer Rights Coalition

The Case for Accountability in Student Loan Servicing in Maryland

Problem:
As the student debt burden surpasses $1.5 trillion, more than 44 million student loan borrowers look to their student loan servicers to help them navigate the road to repayment.[1] Unfortunately, these servicers have a poor track record of assisting students and have routinely taken advantage of the nearly opaque student loan arena to act as predatory debt collectors, instead of customer service guides. Currently, the Consumer Financial Protection Bureau's (CFPB) complaint database hosts approximately 718 complaints related to student loan servicing from Maryland borrowers.[2]

A student loan servicer's job is to act as the liaison between a student and a financial institution that makes a student loan. Their responsibilities include collecting and processing payments, offering advice for borrowers about payment plans, and generally help a student keep their loans in good standing. According to the U.S. Department of Education's Federal Student Aid Office, a student loan servicer provides the customer service aspect of the loan repayment process, handling "the billing and other services," and assisting "[borrowers] with other tasks related to [their] federal student loan."[3]

Unfortunately, these servicers are committing many of the same offenses that the mortgage servicing industry participated in leading up to the financial crisis. Misapplied payments, incorrect information being reported to credit bureaus, poor advice from servicer to borrower, and other offenses that student borrowers experience today echo the problems experienced by homeowners throughout the foreclosure crisis. Worst of all, student loan servicers have been placing borrowers in forbearance plans that cost borrowers *more* money in the long run, rather than income-driven repayment plans which would make loan payments more affordable for struggling borrowers. However, unlike mortgage servicers, student loan servicers are rarely regulated at the state-level, and cannot be sued if a payment is applied improperly, simply because there is a lack of consistent industry standards around student loan servicers that would clarify the road to a lawsuit.[4]

And bad behavior by servicers is actually *incentivized* by our current collection system. According to a 2015 report from the CFPB, through the federal loan rehabilitation program, collectors are paid as much as $40 for every dollar they collect from struggling borrowers, even if borrowers find themselves back in default. This incentivizes collectors to focus on short-term borrower outcomes – like, getting a borrower to quickly complete a nine-month rehabilitation process – but offers no incentive for them to provide guidance towards affordable long-term payment options.[5]

The Importance of Maryland Protections for Student Borrowers:
In Maryland, 56% of students graduate with debt from attending an educational institution of higher education. On average, Maryland students graduate with $27,672 in debt.[6] Upon matriculation, these students begin to pay back

[1] https://www.consumerfinance.gov/about-us/newsroom/cfpb-monthly-snapshot-spotlights-student-loan-complaints/
[2] https://www.consumerfinance.gov/data-research/consumer-complaints/
[3] https://studentaid.ed.gov/sa/repay-loans/understand/servicers
[4] http://www.consumerreports.org/student-loan-debt-crisis/student-loans-vs-mortgages-what-makes-student-debt-different/
[5]https://www.consumerfinance.gov/about-us/newsroom/cfpb-projects-one-three-rehabilitated-student-loan-borrowers-will-re-default-within-two-years/
[6] http://ticas.org/posd/map-state-data#overlay=posd/state_data/2016/md

their loans with the assistance of a student loan servicer.

In the student loan section of the CFPB's consumer complaint database, the largest number of complaints from Maryland consumers are related by topic to student loan servicing. Sixty percent of the 1,200 student loan complaints from Maryland student borrowers fell into this category. Some of these consumers felt that their payments had been mismanaged. Others felt that they had received bad information about their loan from their servicer. Other complaints were directly related to customer service, disagreements about fees, etc.[7]

"This is the third year I have been kicked off Income Driven Repayment by [my servicer], FedLoan, while they 'process' my re-certification. In the meantime, I have been forced into either forbearance... I have filed my paperwork on time every year, they have taken 3-6 months to process it. Twice placing me on the incorrect repayment plan and costing me thousands of dollars while they corrected the plan the second time... I know I am not alone stuck in the FedLoan incompetence trap."

–A Maryland borrower, from the Consumer Financial Protection Bureau's complaint database.

Meanwhile, more and more federal student protections are being rolled back at the Department of Education, Maryland has a unique opportunity to reinstate vital protections for borrowers in our state. And state action is more important now than ever before.

In 2018, the Consumer Financial Protection Bureau officially shuttered the doors on its Office of Students and Young Consumers, signaling a clear disinterest from the current administration in protecting student loan borrowers. Prior to shutting down, the Office helped return more than $750 million to student loan borrowers across the country.[8] Without the Office's important work on behalf of borrowers, students throughout the United States are left without a regulatory body to protect them against abusive and deceptive practices by student loan servicers.

While the rapidly rising cost of education is a serious issue that must be addressed, the state must also put in place protections for those who already carry debt and need assistance repaying their student loan debt by licensing student loan servicers and regulating them as debt collectors.

Disproportionate Effects on People of Color, Women, and Older Adults:

According to a recent report from the Brookings Institute, Black college graduates owe, on average $7,400 more than their white classmates. As time passes, the "debt gap" more than triples to $25,000 in difference, thanks to rapidly accruing interest.[9]

In addition, student loan debt creates a disproportionate burden on women in the United States. The research report,

[7] https://data.consumerfinance.gov/dataset/Consumer-Complaints/s6ew-h6mp

[8] https://www.washingtonpost.com/news/grade-point/wp/2018/05/09/mick-mulvaney-takes-aim-at-cfpbs-student-protection-unit/?utm_term=.544bb73114f8

[9] https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation/

Deeper In Debt: Women and Student Loans, was released by the American Association of University Women and found that female students are more likely to take on student debt than their male counterparts, and are slower to repay that debt, thanks to the gender pay gap. "Upon completion of a bachelor's degree, women's average accrued student debt is about $1,500 greater than men's, and Black women take on more student debt on average than do members of any other group."[10]

And it's not just millenials who are facing crushing student loan debt – older adults are increasingly facing garnishment of their Social Security benefits for disability or retirement, thanks to often decades-old student debt. Many senior citizens took out loans years ago to pursue mid-career training or support a child or grandchild's dreams.

According to Consumer Reports' research, about 7 million adults over the age of 50 currently hold student loan debt. [11] As our population continues to age, it is expected that we'll see increases in Social Security garnishments related to student loan debt.

People of color, women, and older adults are all impacted greatly by student loans. Quality student loan servicing is an incredibly integral resource for these communities, that are already systematically disadvantaged by societal and financial structures. If Maryland hopes to build wealth within communities where financial growth is most crucial, student borrower protections must be strengthened to assist learners facing the greatest obstacles.

Solution:
A Student Borrowers' Bill of Rights clarifies and makes explicit that student loan servicers should be licensed by the Commissioner of Financial Regulation. Not only will this classification assert stronger consumer protections on the student loan servicing industry, but it will enable the Commissioner of Financial Regulation's Office to examine and license these firms, as well as hold them accountable for the bad behavior they have demonstrated.

Last year, SB 1068 – which was brought forth by this Commission – resulted in a Student Loan Ombudsman role being added to DLLR. This individual is charged with processing student complaints, but has no regulatory authority to act on issues that are brought forth. While the creation of this position is a step forward for students, it is necessary that the Ombudsman be granted the power to actually investigate and take action against bad actors in order to ensure accountability and protection for students.

Other states, including Connecticut, California, Washington, and Illinois, as well as Washington DC have already taken action with similar bills, and many other states are currently working on developing legislation that would provide a Student Borrowers' Bill of Rights for their communities.

[10] https://www.aauw.org/research/deeper-in-debt/
[11] https://www.consumerreports.org/student-debt/solutions-for-seniors-who-are-in-default-on-student-loans/