Written Testimony of Cheye-Ann Corona

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Before the Senate Committee on Labor and Business

On Senate Bill 485, Requires Certain Persons that Service Student Loans in this State to Obtain or Renew License.

Public Hearing: Tuesday, February 2, 2021

Chairman Riley, Vice Chair Hansell and members of the Senate Committee on Labor and Business, my name is Cheye-Ann Corona. I am a Senior Policy and Government Affairs Associate with the Center for Responsible Lending (CRL) and a member of Oregon's Stop the Debt Trap Alliance. I am here today to urge members of the committee to consider amending this bill to provide a robust regulatory and oversight regime in order to effectively prevent abusive student loan servicing practices.

The Center for Responsible Lending (CRL) is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, a nonprofit community development financial institution. For thirty years, Self-Help has focused on creating asset building opportunities for low-income, rural, women-headed, and minority families.

Over the past few years CRL has worked on student lending issues around the country because we could not ignore the growing student debt crisis and its impacts on low-wealth families and communities of color. In fact, what we have found is that student debt widens the racial wealth gap. Over the last decade, student loan debt has exploded leaving a mark on millions of Americans and the economy. Nationally, 44 million Americans are straddled with a combined of almost $1.7

trillion in student loan debt.[1] In Oregon, 532,600 student loan borrowers owe $19.7 billion in student loan debt.[2]

But, how did we get here?

The catalyst of the student debt crisis was mostly caused by the effects of the 2008 financial crisis. States cut higher education budgets and passed on the costs to students by increasing the price of tuition.[3] Those who lost their jobs due to the financial crisis turned to vocational training to make themselves marketable in a post-recession economy and enrolled in predatory for-profit institutions taking on extra debt to pay for a worthless degrees.[4] And finally, many student loan servicers without proper oversight abused their role in servicing student loans.

Now, because of COVID-19's impact on the economy, student loan payments are on pause because our nation's leaders are realizing the impact that student loan debt has on the everyday lives of millions of Americans. With payments paused, borrowers have breathing room. And so do state legislatures. We have an unprecedented chance to plan and to make possible a stronger, more equitable economy in the wake of COVID-19. This includes taking lessons from the Great Recession to ensure that we don't make the same mistakes that got us into this student debt crisis.

One of the many lessons learned from the foreclosure crisis was the importance of protecting against abusive servicer practices. Despite the difference in products, the same is true for today's federal student loan borrowers. Student loan servicers are a critical link between borrowers and the repayment of their loans. Servicers are charged with evaluating borrowers for income-driven repayment programs, discharges and other plans that can help them manage their monthly payments. Failure to properly serve borrowers, however has led to delinquencies, defaults and

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[1] The Federal Reserve, Student Loans Owned and Securitized, Outstanding. https://fred.stlouisfed.org/series/SLOAS

[2] U.S. Department of Education, Federal Student Loan Portfolio by Borrower Location, https://studentaid.ed.gov/sa/about/data-center/student/portfolio (Reflecting totals through the end of June 2018); Consumer Financial Protection Bureau, 50 State Snapshot of Student Loans, Aug.2017, https://files.consumerfinance.gov/f/documents/cfpb_student-loans_50-state-snapshot_complaints.pdf

[3] Mitchell, M.; Leachman, M.; Masterson, K.; & Waxman, S. 2018, October 4. "Unkept Promises: State Cuts to Higher Education Threaten Access and Equity." Center on Budget and Policy Priorities. https://www.cbpp.org/research/state-budget-and-tax/unkept-promises-state-cuts-to-higher-education-threaten-access-and

[4] Butrymowicz, S. & Kolodner, M. 2020, June 17. "For-Profit Colleges, Long Troubled, See Surge Amid Pandemic." New York Times. https://www.nytimes.com/2020/06/17/business/coronavirus-for-profit-colleges.html

even an increase in the outstanding student loan debt nationally.[5] When servicers do not do their job, borrowers cannot reasonably repay their loans.

In fact, student loan servicers added $4 billion to the debt load of American student loan borrowers over a five-year period, which resulted in the Consumer Financial Protection Bureau (CFPB) to suing Navient, one of the largest student loan servicing companies.[6] According to a lawsuit filed by the CFPB against Navient, the company failed "every type of borrower at every level of repayment". One of the key abuses alleged by the CFPB is that Navient placed borrowers into forbearance even though the borrowers were eligible for income-driven repayment plans, which would have tied their monthly payments to their incomes. In forbearance, a borrower pays nothing for a set number of months – while the interest on their loans continues to compound. This solution is appropriate for a borrower who needs a few months to get back on their feet. It is not a solution for borrowers who need long term help.

There is no guarantee that servicers will have empathy or act in the favor of borrowers. Borrowers are not able to select who services their student loans so servicers are not incentivized by market forces to provide quality customer service and otherwise engage in fair practices. In fact, Navient, in the CFPB enforcement action, acknowledged this: "*The servicer acts in the lender's interest… and there is no expectation that the servicer will 'act in the interest of the consumer*.'"[7] Navient followed up on this statement in court, telling a federal judge in Pennsylvania that any reference it made to helping borrowers successfully pay their loans "*[is] friendly talk, it's puffery, but it is not the stuff of a legal obligation to now become your financial counselor*."[8] Without consumer choice or effective regulatory mechanisms, student loan servicers have been left to operate without meaningful accountability to the detriment of borrowers.

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[5] Press Release, Consumer Financial Protection Bureau, "CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment: Navient, Formerly Part of Sallie Mae, Illegally Cheated Borrowers Out of Repayment Rights Through Shortcuts and Deception", (January 2017) https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.

[6] Id.

[7] Shahein Nasiripour, "Student Debt Giant Navient to Borrowers: You're on Your Own: The servicer says publicly it wants to help you pay debt. In a government lawsuit, it has a different message," Bloomberg, (Apr. 3, 2017), https://www.bloomberg.com/news/articles/2017-04-03/student-debt-giant-navient-to-borrowers-you-re-on-your-own.

[8] Stacy Cowley, "How a Potential $1 Billion Student Loan Settlement Collapsed After Trump Won," New York Times (Oct. 7, 2018), https://www.nytimes.com/2018/10/07/business/student-loans-navient.html.

A 2019 report by the Office of Inspector General (OIG) for the Department of Education echoes many of these same issues concerning student loan servicers' lack of accountability thus far. The report details the findings of an internal audit specifically examining the Office of Financial Student Aid (FSA), the branch of the Department of Education responsible for the entire $1.566 trillion federal student loan portfolio.[9] Of that portfolio, just over 89 percent of its total value is assigned to only four main servicers, of which 23 percent is assigned to Navient, and 19 percent to Nelnet.[10] The audit found, from January 2015 through September 2017, "recurring instances…of servicer representatives not sufficiently informing borrowers about available repayment options."[11] Moreover, the report states that servicers were placing borrowers into forbearance instead of sufficiently informing them about available repayment options, which in some instances resulted in borrowers' interest capitalizing when another repayment option would have prevented it.[12] In addition, the audit showed that servicers were repeatedly miscalculating borrowers' repayment amounts on income-driven repayment plans.[13] Importantly, the OIG, in its report, indicates that the noncompliance the FSA repeatedly identified through its audit could put more borrowers at risk than just those borrowers that the audit covered. The OIG states those risks as including, "increased interest or repayment costs incurred by borrowers, the missed opportunity for more borrowers to take advantage of certain repayment options, negative effects on borrowers' credit ratings, and an increased likelihood of delinquency or even default."[14]

Servicers have failed borrowers who need information about how to make their payments more manageable, how to get out of default and other problems borrowers run into. This has frequently meant defaults, credit problems from inaccurate reporting to credit agencies, and wage garnishment. Over the past 4 years there has been little to no federal oversight of the student loan servicing industry. While we hope that this will change with the current administration there are no guarantees and states must step up and provide necessary oversight of student loan servicers.

[9] Federal Student Aid, Federal Student Aid Portfolio Summary https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls

[10] PHEAA and Great Lakes are responsible for the remaining portfolio of federal student loans. See Audit Report, U.S. Department of Education, Office of Inspector General, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans" (Feb. 12, 2019), https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

Additionally, once the national student loan payment pause is over and payments resume States will need to be more vigilant than ever to ensure that there is proper student loan servicer oversight.

Strong student loan servicer regulatory oversight bills or what we call Student Loan Bill of Rights have already passed in 13 states. Oregon can exert its traditional policy powers to protect student loan borrowers, it has the authority to ensure that servicers are not engaging in unfair and abusive practices. While SB 485 is a laudable attempt at addressing one of the main factors of the student loan debt crisis - servicer abuses. As written, the bill falls short in providing clear direction for student loan servicers who operate in Oregon.

SB 485 could be strengthened by following the model of states like Colorado, Maine, Rhode Island and New Jersey who have among the strongest of protections and through legislative action proactively provided clear direction for student loan servicers by listing out servicers' affirmative duties.

Common sense affirmative duties ensure servicers are responding to and communicating with borrowers in a timely manner and applying payments in a way that best benefits the borrower (such as when the borrower pays more or less than the scheduled amount). It also sets disclosure requirements for when loans are sold, assigned, or transferred. The bill could also be strengthened by requiring that servicers evaluate borrowers for eligible relief under income-driven repayment plans before placing their debt into default or forbearance and requiring servicers to inquire about how overpayments should be directed. And ensuring that even when a borrower is only able to pay a smaller amount then is due this will not negatively impact the borrowers' credit score but count toward their overall amount due. These and other amendments would greatly strengthen the bill providing measures and incentives for servicers to act in the favor of the borrower rather than their bottom line.

Therefore, the Center for Responsible Lending urges this committee to take a stand for Oregon student loan borrowers by supporting SB 485 with amendments that incorporate a robust regulatory and oversight regime in order to effectively prevent abusive student loan servicing practices.

For additional information or if you have questions, please contact Cheye-Ann Corona, Senior Government Relations and Policy Associate, at cheye-ann.corona@responsiblelending.org.