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A QUICK LOOK INTO IMPORTANT ISSUES OF THE DAY

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Strengthening Student Loan Oversight

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Outstanding student loan debt reached $1.53 trillion in the U.S. in 2018, with the average borrower at a public college or university owing $25,550. Nearly 10% of borrowers have student loan balances of more than $80,000.

These debt levels are creating noteworthy economic effects. A recent report from the Federal Reserve found that student loan debt is having a significant effect on declining homeownership among young adults. A 2018 survey found that 80% of respondents with student loan debt have delayed saving for retirement because of that debt. The Federal Reserve Bank of New York reported that student loan delinquency rates are increasing and remain at high levels relative to other types of debt. Finally, an analysis by the Brookings Institution found that nearly 40% of borrowers may default on their student loans by 2023.

In response, states are seeking strategies to mitigate the negative effects of student loan debt. While states are exploring many policy options to address the issue, including repayment assistance and forgiveness plans, several states have also enacted legislation to create new regulations and consumer protections regarding student loan lending, borrowing and repayment.

Student loan terms and repayment options are often confusing for borrowers. In 2017, the Consumer Financial Protection Bureau (CFPB) handled approximately 23,000 complaints related to student loan servicing. The CFPB's report also

Did You Know?

- More than 44 million Americans owe student loan debt.
- Student loan servicers are companies that manage billing, repayment and other services related to student loans.
- In 2019 alone, nearly 20 states introduced legislation to modify student loan servicing oversight.

found that "borrowers assigned to the largest student loan servicers may encounter widespread problems." Additionally, a 2018 survey found that more than 1 in 3 student loan borrowers had difficulty accessing information about their loans and repayment status. The same survey found 59% of borrowers experienced unclear guidance about their repayment situation and options from loan servicers.

Borrowers commonly note difficulties when trying to enroll in income-driven repayment plans, which can allow borrowers to make lower payments on their loan balance. However, there are several versions of income-based repayment and navigating these options can often confuse borrowers and cause delays in payments, which can lead to defaults.

State Action

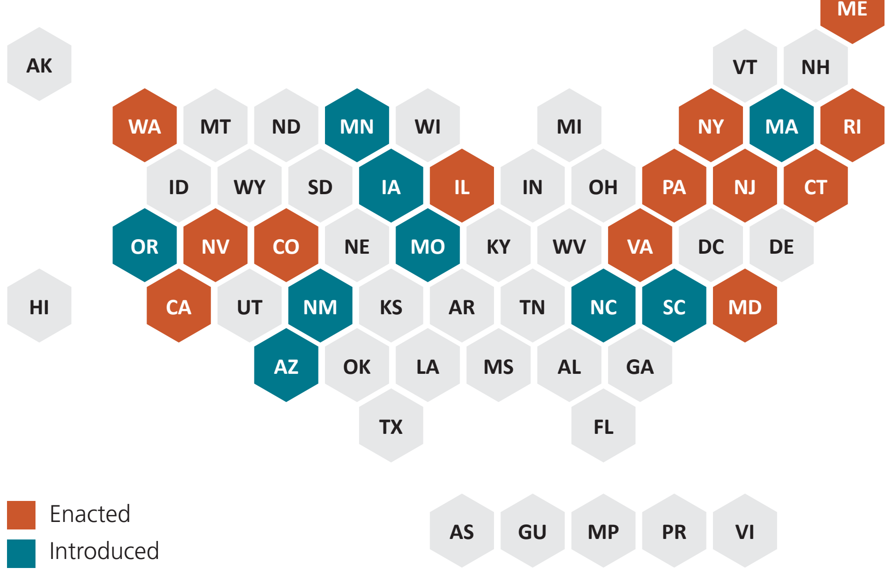
In recent legislative sessions, states have imposed new regulatory guidelines and created protections designed to help borrowers understand their repayment options and navigate the loan servicing process. Connecticut became the first state in the nation to implement a "student loan borrower bill of rights" with the passage of HB 6915 in 2015. This bill included provisions to require that student loan servicers be licensed and registered with the state Department of Banking. It also requires appointing a student loan ombudsman to track and address borrower complaints and collect data regarding student loan debt, and creating a borrower information course for students and families.

Since 2015, 12 additional states have passed legislation to expand student loan oversight. Many of these bills contain similar provisions to the legislation passed in Connecticut, with at least half including specific language to appoint a student loan ombudsman. Other states have created new licensure and lending requirements for student loan servicers. These requirements include rules for the amount of time a payment can be processed, requirements to correct errors, and rules that mandate informing consumers of available repayment options. Some bills also include efforts to increase borrower awareness and understanding. For example, Pennsylvania HB 2124 (2018) requires higher education institutions to send letters to students with information regarding student loan debt.

The 2019 legislative session saw substantial interest in student loan oversight legislation. Nineteen states introduced legislation and seven bills were enacted, more than doubling the number of states that had passed legislation in the prior four years.

Proponents of these bills argue states should take proactive roles in both regulating loan servicers and helping borrowers stay informed about repayment. However, loan servicers argue these regulations drive up costs and create a confusing patchwork system of oversight for student loan repayment.

Student Loan Oversight Legislation Since 2015



Source: NCSL, 2019

Federal Action

State regulations for student loan servicers have been contested by the U.S. Department of Education and in federal court. In March 2018, the Department of Education issued a notice of interpretation asserting that state oversight of federal student loans "impedes uniquely federal interests." The department guidance was particularly concerned with Massachusetts' lawsuit against a loan servicer but further claimed "attempts by other States to impose similar requirements will create additional conflicts with Federal law." This policy reversed the guidance from the department in 2016, which stated that state regulations would not preempt federal law.

Shortly after this announcement, the Pennsylvania Higher Education Assistance Agency (PHEAA), a loan servicer, filed suit against the state of Connecticut. PHEAA claims Connecticut law puts the servicer in conflict with federal law and risks losing its ability to operate in the state. Several other lawsuits have been filed by loan servicers in other states.

In June 2019, the 7th U.S. Circuit Court of Appeals issued a ruling that student loan servicers are subject to state laws related to student loan oversight and that these laws are not preempted by the federal government. Legal experts have speculated that additional court cases will move forward at the federal level, potentially moving to the U.S. Supreme Court if rulings conflict at the district level.

Additional Resources

- "U.S. Student Loans and Debt Levels Set Record: What's a Legislature to Do?," NCSL Report
- Student Borrower Protection Center's "A Year Without Action: Analysis of Borrower Complaints"

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