

19 Financial Services and Consumer Groups Urge Congress to Exempt Economic Impact Payments from Garnishment

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Congress should protect the third-round of economic impact payments from garnishment so families that need the financial relief can access funds without delay

Washington, D.C. – In a joint letter sent to Congress yesterday, 19 consumer and financial industry organizations urged lawmakers to protect the third round of economic impact payments (EIPs) from garnishment so the money gets to the families who most need it. Allowing EIPs to be garnished could impose significant burdens on some families, especially those in communities of color, who are facing unprecedented circumstances during the ongoing pandemic.

These EIPs are intended to help families purchase food and other necessities to make ends meet. Many people were already struggling prior to the coronavirus crisis and millions have now been laid off or had their hours cut. However, EIPs from the American Rescue Plan Act of 2021 are not exempt from garnishment, unlike the second round of EIPs from the Coronavirus Response and Relief Supplemental Appropriations Act of 2021.

“We believe it is imperative that Congress ensure that these next stimulus payments are treated as ‘benefits’ subject to the federal exemption from garnishment,” note the consumer groups and financial industry organizations. “Otherwise, the families that most need this money—those struggling with debt and whose entire bank accounts may be frozen by garnishment orders—will not be able to access their funds. This group includes very low-income families with children, people who have been disconnected from work opportunities for a long period, and many low-income adults now raising children in their homes.”

If Congress doesn’t immediately pass standalone legislation addressing garnishment, the new round of EIPs will *not* be protected from garnishment. They need to be protected to “ensure that American families will receive these benefits as intended,” while also allowing financial institutions to follow the law and operate “within the practical realities of existing financial institution systems,” the groups said in the letter.

Without clear statutory language that the EIPs are exempt from garnishment, depository institutions are obligated to comply with court orders and will be forced to freeze bank accounts when served with a garnishment order and, if the consumer does not assert an exemption, turn over some or all of a stimulus payment to judgment creditors.

A copy of the letter signed by the American Bankers Association, Americans for Financial Reform, Bank Policy Institute, Center for Responsible Lending, Consumer Action, Consumer Bankers Association, Community Development Bankers Association, Consumer Federation of America, Credit Union National Association, Independent Community Bankers of America, Nacha, National Association of Consumer Advocates, National Association of Federally-Insured Credit Unions, National Bankers Association, National Consumer Law Center (on behalf of its low income clients),

Public Citizen, The Clearing House, and U.S. PIRG is available here. For more information on how to protect stimulus payments and child tax credits from garnishment, see NCLC's issue brief.

New Government Data Exposes Complete Failure of Education Department's Income-Driven Repayment Program

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Just 32 Students Have Received Promised Debt Cancellation as 2 Million Remain Trapped in Decades-Old Debts; Advocates Call for Immediate Action to Deliver Debt Relief and Overhaul the Department's Program

Washington, D.C. - Approximately two million student loan borrowers are currently trapped in undergraduate debts more than two decades old, and, according to U.S. Department of Education (Department) data obtained by the National Consumer Law Center, just 32 borrowers have ever qualified for loan cancellation through the federal government's income-driven repayment (IDR) program. Enacted by Congress more than 25 years ago, IDR promises low-income borrowers a path to debt relief after 20 or 25 year of monthly payments. Flawed program design, shoddy and illegal student loan servicing practices, and chronic mismanagement by the Department have all contributed to the complete collapse of the most important anti-poverty program under the control of the federal government's student loan arm, according to a new policy brief by the National Consumer Law Center and the Student Borrower Protection Center.

"The broken student loan system is ravaging 45 million Americans - and women, low-income borrowers, and Black and Latinx borrowers in particular, are bearing the brunt of that burden which has a devastating effect on borrowers' communities and the economy as a whole," said **Persis Yu, director of the National Consumer Law Center's Student Loan Borrower Assistance project**. "The fact that only 32 borrowers, out of the millions paying for 20 or more years, have received cancellation through the programs created to ensure an affordable pathway out of debt is proof that those programs have failed and are likely exacerbating racial and gender disparities in the student loan portfolio. While the Department must fix income-driven repayment going forward, it is imperative that it provide immediate relief to the millions of borrowers languishing for decades in a broken student loan system."

"After paying for decades, borrowers have been knocked off track and denied the promise of cancellation due to mismanagement by the Department of Education and abusive practices by the student loan industry," said **Seth Frotman, executive director of the Student Borrower Protection Center**. "Millions of borrowers are in desperate need of immediate relief, and they don't have time to wait for twenty more years of empty promises."

Key Recommendations

To address the decades-long failure of IDR to deliver promised relief to low-income student loan borrowers and create a functional and equitable program, the Department must:

1. Immediately review the implementation of IDR and audit the student loan accounts of all borrowers potentially entitled to relief under the law.
2. When conducting this review and audit, center the needs and lived experiences of low-income borrowers and borrowers of color by getting meaningful input from borrowers directly and addressing breakdowns that disproportionately harm vulnerable borrowers.
3. Cancel student debt for all federal loan borrowers in debt for two decades or more, regardless of whether they previously enrolled in an IDR plan.
4. Overhaul IDR to create a truly affordable repayment option that will provide borrowers with a functioning pathway to tax-free cancellation, including safeguards to protect borrowers from servicing errors and abuses.

All of these steps are necessary, but are not a substitute for broad cancellation of a substantial amount of student loan debt for all borrowers, not tied to the failure of the IDR programs. Broad cancellation would accomplish, with the stroke of a pen, what decades of student loan policies have failed to achieve.

Background on IDR plans: First authorized by Congress through the Higher Education Act in 1995, the IDR program was intended to help low-income students get out of the burden of unaffordable federal student loan debt. The borrower's monthly payment is based on a portion of the borrower's income and any remaining loan balance is cancelled successfully after making 20 to 25 years of payments, depending on the plan. If the program worked as intended, more than 2 million borrowers would have had their debt cancelled by now.

Report: What States Can Do to Save Lives and Protect Seriously Ill Residents from Utility Shut-Offs

FOR IMMEDIATE RELEASE: FEBRUARY 24, 2021

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Download the report and appendices, including each state's rules and recommendations for crafting a strong rule at: <http://bit.ly/ill-consumer-utility>

Boston - In each of the 50 states and in D.C., utility commissions set the rules regarding when and

how the companies they regulate can terminate vital electric and gas service for non-payment. A new 50-state review from the National Consumer Law Center analyzes the protections against termination of households where someone is seriously ill and finds that most states can improve. Doing so can mean the difference between life and death. “Too many low-income, medically-vulnerable customers have become more ill or died when their utility service was thoughtlessly terminated,” said **National Consumer Law Center attorney Charlie Harak**, a co-author of the report. “Even one death is tragic. States must do more to protect the health and well-being of their citizens. One important step they can take is to adopt the report’s recommendations and strictly limit when utility service for seriously ill customers can be terminated.”

Millions of utility customers have their service terminated for non-payment each year. Many of those are low-income households in which someone is seriously ill. In extreme cases, termination of service to those households has led to death. More frequently, loss of electric or gas service makes existing illnesses or conditions worse. Utility service is often essential, for example, for refrigerating medications, powering needed medical equipment, or simply maintaining adequate temperature in the home. Disconnection from utility service is especially dangerous for vulnerable populations: the very ill and the very young and old, in particular.

Most states—except Alabama, Alaska, Louisiana, and North Carolina—have some sort of serious illness protection in their statutes or public utility rules. However, most existing state laws and regulations are overly narrow, create protections that are difficult to access and not widely known, or provide for an overly short period of protection.

“NCLC’s groundbreaking report provides valuable guidance on how state public utility commissions can design regulations to help protect seriously ill consumers from utility disconnections,” said **Mark Wolfe, director of the National Energy Assistance Directors’ Association** which represents Low-Income Housing Energy Assistance Programs across the nation. “This is especially important now as an increasing number of frail elderly people leave hospitals and return home with life-saving equipment that require access to reliable and affordable electricity.”

Recommendations

A strong and effective rule to protect vulnerable individuals would include the following:

1. **Broad Scope:** Eligibility for the protection should be broad and should include anyone with a serious illness whose health and safety would be at risk by involuntary disconnection of energy service.
2. **Diversity of Certifiers:** A wide range of entities should be allowed to certify serious illness, and the utility company should be required to abide by their certification.
3. **Prompt Initiation and Adequate Duration of Protection:** Seriously ill customers must be able to obtain the protection against disconnection promptly, and the duration of the protection should correlate with the customer’s health needs.
4. **Adequate Notice and Easily-Accessible Process:** Utilities should be required to notify customers of the serious illness protection rules, with an explanation of a clear and simple application procedure, and in multiple languages as appropriate to that utility’s service territory.
5. **Affirmative Outreach:** Utilities should act affirmatively to identify medically fragile customers and avoid terminating their service.
6. **Monitoring and Enforcement:** Utilities should be required to collect, report, and analyze data, at a granular level (e.g., by zip code), to monitor the administration of the protections.

The report includes summaries of the serious illness criteria of each state and Washington, D.C., gives examples of states that have effective criteria (such as sample prompt reconnection rules) and

includes sample state forms for documenting serious illness (see appendices A - F). Also included are a description of a model partnership in Maryland and tables of states with in-language notices, jurisdictions with a special process to identify medically fragile customers, and states with requirements to notify the public utility commission before disconnection of seriously ill customers.

COVID-Driven Utility Debt Fuels a Looming Crisis in Shut-offs in Massachusetts and the Nation

FOR IMMEDIATE RELEASE: February 16, 2021

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National Consumer Law Center Analysis Finds Huge Increase in Number of Small Business and Residential Customers at Risk of Termination

Download the report at: <http://bit.ly/covid-util-arrearages>

Boston – The COVID-19 crisis put millions of Americans in financial peril, hitting households of color particularly hard. In response, moratoriums on utility shut offs were instituted in many states across the country to protect customers from the immediate danger of termination. However, some states' moratoriums have already expired, or were never instituted in the first place, meaning that for millions of customers the threat of shutoff due to the inability to pay their energy bills is already a reality. Many other states' moratoriums expire soon (Massachusetts, for example, is currently set to expire on April 1). Unpaid utility bills are accruing in the Bay State and across the country, and new analysis by the National Consumer Law Center finds that without additional aid and flexible repayment programs, millions of families and small businesses will face or are already facing a mountain of debt that they can't pay, placing them at high risk of disconnection.

"Our analysis shows that the pandemic has not only placed massive financial strain on low-income Americans who were already struggling to pay their utility bills but has also created a major burden on small business owners and other residential utility customers who are newly unable to pay their energy bills, which is of grave concern," said **National Consumer Law Center attorney Charlie Harak and co-author of the report.**

In Massachusetts alone, over a one-year period ending November 2020, the total amount of utility debt owed more than 90 past due days increased significantly: Small business owners saw an increase of 135% from \$18 million to \$41 million over that time while regular residential arrearages increased 80% from \$194 million to \$351 million (numbers rounded). The low-income arrearages increased less — 25% — because those customers started at a much higher baseline: The average arrears per residential customer was \$805 in November 2019 versus \$1,252 per low-income customer.

Key Findings

- The COVID-19 pandemic has created a new class of struggling customers in

Massachusetts—those who were previously able to pay their bills, but due to the pandemic are no longer able to make payments.

- When the Massachusetts moratorium on residential terminations ends in April 2021, hundreds of thousands of customers will be at least 90 days in arrears and will be first in line for termination. It is expected that terminations will continue to hit Black and Hispanic customers particularly hard, as the limited data on shutoffs by race and ethnicity already shows.
- The average arrearages are getting older and larger.
- The scale of the problem has reached a crisis level. Customers in the three classes (low-income residential, regular residential and small commercial and industrial) analyzed in Massachusetts had accumulated over \$730 million in arrears by November 2020, and an estimated tens of billions of dollars in utility debts are accumulating across the country.

“We know that more low-income Black (20%) and Hispanic (28%) households already reported having more trouble paying their bills than white (12%) households between last June and August,” said **Anna Kowanko, National Consumer Law Center assistant researcher and co-author of the report**. “Although our analysis just looked at Massachusetts arrearages, it’s likely happening in most, if not all states in the U.S. The time is now for federal and state governments to collect data by zip code to help address racial disparities and to identify customers who are most at risk of losing utility service to ward off millions of terminations.”

Recommendations

1. Any federal aid bill should include substantial additional funding for energy assistance programs.
2. Any supplemental Low Income Housing Energy Assistance Program (LIHEAP) funding should leverage cancellation of all or a significant portion of customers’ utility debt.
3. Programs meant to help customers pay or write off past arrearages should be made more flexible and accessible.
4. States should collect detailed data on the number of customers in arrears, the amount of arrears accruing, and the age of arrears by customer class. Also, it is imperative that data collection be expanded to include zip code level data in order to understand and address any racial disparities. Massachusetts specifically should continue collecting the data being reported in DPU Docket 20-58 and mandate the reporting of zip code level data.

Report: Vulnerable Taxpayers Can Expect Higher Costs for Tax Preparation Services During the COVID Economic Crisis; Missing

Stimulus Payments Can Be Claimed through Tax Returns

FOR IMMEDIATE RELEASE: February 11, 2021

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Download the report at: <http://bit.ly/2021-tax-season>

Boston — Tax season kicks off on February 12, several weeks later than usual. Today, the National Consumer Law Center (NCLC) issued its annual advisory on taxpayer consumer protection issues and warned that consumers need to be on guard as they navigate the tax filing season. “Tax time is usually a challenge for low-income and other vulnerable taxpayers, and when consumers don’t have adequate information to shop around, abusive pricing schemes proliferate,” **said Michael Best, staff attorney at the National Consumer Law Center and co-author of the report.** “Filing a tax return will also be critical this year for those who did not get some or all of their stimulus payment, including low-income families who do not normally need to file tax returns,” Best added.

Taxpayers should know that stimulus payments claimed through a tax return will not currently be protected from garnishment by debt collectors. NCLC has an issue brief ([available at http://bit.ly/tax-refund-protection](http://bit.ly/tax-refund-protection)) on how Congress can, and should, still protect tax refunds and offsets, such as the Earned Income Tax Credit (EITC) and Child Tax Credit from garnishment. But Congress must act soon. Those at risk of garnishment can request a paper check and review NCLC’s Tips for Dealing with Bank Account Freezes and Seizures.

The IRS will not send refunds to taxpayers who receive the EITC until at least the first week of March, possibly later if fraud screening delays payments. “Delaying the EITC payments that low wage workers rely on simply diverts those economic development dollars from families to banks and tax preparers who sell expensive tax-time loan products to families who need help right now,” **noted Chi Chi Wu, staff attorney at the National Consumer Law Center.**

Key findings from NCLC’s *2021 Tax Season: Higher Costs for Vulnerable Taxpayers During the COVID Economic Crisis* include:

Stimulus payments and the COVID crisis. Filing a 2020 tax return and claiming the Refund Recovery Credit will be important for those who did not receive some or all of their Economic Impact Payments (EIP), i.e., stimulus payments. This includes those who do not normally file tax returns because their income is so low, those whose payments bounced when sent to temporary bank accounts set up by paid preparers, and families who did not get the full EIP for dependents.

Tax-time financial products. Lenders and tax return preparers again team up to sell refund-related products and services to taxpayers, with a move towards larger “no-fee” refund anticipation loans (RALs) and one price for all RALs no matter the amount. The latter practice may result in larger loan costs for taxpayers who might have taken out a smaller amount at a lower cost in previous years. In 2019, there were 1,658,000 no-fee RALs and 349,000 fee-bearing RALs; in 2018, the numbers were 1,651,000 million no-fee RALs and 356,000 fee-earning RALs. In addition, there were 21 million refund anticipation checks in 2019.

New and Disturbing Twist: Debiting taxpayer bank accounts for preparation fees. This tax season, Santa Barbara TPG is offering third-party debt collection services to collect past-due tax

preparation fees from taxpayers who previously took out a refund anticipation check (RAC) when the anticipated tax refund wasn't received by the taxpayer. The company's tactics include debiting the bank accounts of taxpayers who don't respond to requests to pay.

Inability to comparison shop for in-person service. There seems to be a movement towards greater transparency in pricing when using an online or virtual tax preparation service. For in-person services, there is a lack of transparency, although H&R Block continues to offer more pricing information about these services than some other preparers. If the tax chains can disclose prices for virtual services, they and other brick-and-mortar preparers can disclose prices upfront as well.

Private debt collection. The IRS private debt collection program continues to deliver vulnerable taxpayers into the hands of private debt collectors and reward the collectors with legally dubious commissions. As of May 2020, private collectors had collected \$498.4 million in commissionable payments — with 45% of that amount collected in the first two-thirds of 2020. But taxpayers have the right to demand in writing (recommended) or orally that their tax debt account be recalled from the private collector and returned to the IRS immediately.

Taxpayers who receive a 1099-C for a discharged debt may have options. Taxpayers whose debts are charged off or forgiven may receive a 1099-C, which reports taxable income. There are options to avoid the tax, but taxpayers typically need the help of an attorney or enrolled agent.

The report also includes a roundup of resources for consumers regarding free tax preparation services and how to check the real-time status of refunds using the IRS website's automated Where's My Refund function.

This report is the latest in a wide body of work that NCLC has produced on consumer tax issues.

Advocates Applaud Bill to Restore Access to the Courts and End Forced Arbitration

FOR IMMEDIATE RELEASE: February 11, 2021

Livestream the House Judiciary hearing on Forced Arbitration on Feb. 11 at 10am here.

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Washington, D.C. – Robinhood may be able to thwart access to the courts for customers harmed in the recent GameStop incident. By inserting a “forced arbitration” clause in its contract, Robinhood took away a right provided in the Seventh Amendment by making it nearly impossible for harmed customers to have their day in court. This is just the latest of hundreds of companies, including Uber, Wells Fargo, Equifax, Sterling Jewelers, and Fox News, accused of wrongdoing that have used forced arbitration clauses to deprive people of access to the courts. But Congress now has the opportunity to right that wrong. Today, Representative Hank Johnson (D-GA-4) reintroduced the Forced Arbitration Injustice Repeal (FAIR) Act in the House and Senator Richard Blumenthal (D-CT) is expected to reintroduce it in the Senate next week. The FAIR Act would restore access to the

courts for consumers, workers, and small businesses harmed when companies violate the law.

“I applaud Senator Blumenthal and Congressman Johnson for re-introducing the FAIR Act to restore our constitutional right to our day in court,” **said Lauren Saunders, associate director of the National Consumer Law Center.** “On behalf of our low income clients, the National Consumer Law Center is proud to support this bill.”

“Companies use fine-print forced arbitration clauses to deprive people of an impartial judge, forcing disputes into a biased, secretive and lawless forum before arbitrators who do not have to follow the facts or the law, who are typically paid by the company, and where there is no right of appeal. The FAIR Act stops forced arbitration and restores access to the courts for survivors of sexual harassment, national guard members terminated from their jobs for serving their country, seniors in nursing homes and consumers ripped off by Wall Street or predatory lenders,” **Saunders added.**

Importantly, the FAIR Act does not eliminate arbitration. It allows people to choose to arbitrate claims after a dispute arises, but prevents companies from using fine-print clauses to force people to commit ahead of time to arbitrate. “People should have the choice, when they have been harmed, of exercising their constitutional right of access to the courts or taking their dispute to an arbitrator. The FAIR Act restores choice and our constitutional rights,” **Saunders said.**

For additional information on the use and impact of forced arbitration clauses visit NCLC’s Forced Arbitration page.

Advocates Applaud Senate Bill Fund to Help Millions of Families Keep Their Homes; Urge Inclusion In COVID Stimulus Bill

FOR IMMEDIATE RELEASE: FEBRUARY 5, 2021

Housing and Civil Rights Groups Call for Homeowner Assistance Fund to Avoid New Wave of Foreclosures and Devastating Effects for Communities of Color

Today, leading housing and civil rights groups applauded Senator Jack Reed’s reintroduction of the Homeowner Assistance Fund bill as Congress and the Biden administration consider the next COVID-19 relief package. Senators Sherrod Brown and Patrick Leahy are lead cosponsors of the bill. The Homeowner Assistance Fund would provide a critical safety net for millions of families who are behind on their mortgages or already in foreclosure as a result of the pandemic, which disproportionately impacts communities of color. The groups also support inclusion of housing counseling funding in the package.

To date, Congress has not allocated any relief dollars to help homeowners during the pandemic, leaving millions of homeowners unable to pay their housing costs and on the brink of foreclosure. Homeowners of color lost their homes at twice the rate of white homeowners during the last financial crisis, and the same communities face the potential for major homeownership losses due to COVID-19. Homeownership is the primary source of wealth building in communities of color.

“This bill would provide crucial assistance that homeowners desperately need to hold onto their homes and keep their families safely and stably housed throughout the pandemic and beyond. Black and Brown homeowners, many of whom have overcome big obstacles in order to purchase their homes, are particularly vulnerable. Many of them were not covered by the protections in last year’s CARES Act,” said **Debby Goldberg, vice president of Housing Policy and Special Projects, National Fair Housing Alliance**. “Unless we give them the help they need now – the kind of help that the Homeowner Assistance Fund would provide – these families may lose their homes and the wealth those homes represent, just as happened during the last economic crisis. That would be a big blow to our efforts to advance racial equity in this country.”

“It’s important to recall that most foreclosures did not occur in 2009. They occurred between 2010-13, and the rate fell for another five years as millions of mortgage ready African Americans continued to reject homeownership based on the experience of their family and friends,” said **David M. Dworkin, president and CEO of the National Housing Conference**. “Another wave of foreclosures and equity loss could prolong that damage for a generation and be a lasting legacy for all of us.”

“Early on, economic relief necessarily needed to focus on immediate impacts of the crisis,” said **Jesse Van Tol, CEO of the National Community Reinvestment Coalition**. “Now, nearly a year later, the rippling effects of the crisis must be addressed more comprehensively. The Homeowners Assistance Fund will provide critical relief for Americans facing foreclosure as a consequence of the crisis.”

“The pandemic and its economic impact have hit communities of color the hardest,” said **Alys Cohen, staff attorney at the National Consumer Law Center**. “25% of Black homeowners and 20% of Latinx homeowners are behind on their mortgages, and the racial wealth gap will expand further without immediate action. Congress has not yet provided cash assistance to homeowners during the COVID crisis. President Biden and Congressional leadership must act now by including the Homeowner Assistance Fund and support for housing counseling in the COVID economic stimulus package.”

“Homeowners who have lost income due to the pandemic should not have to lose their homes when forbearance is over,” said **Bruce Dorpalen, executive director, National Housing Resource Center**. “The Homeowner Assistance Fund can prevent unnecessary foreclosures and housing counselors can help get affordable workouts for them. Smart, targeted investments now will keep people in their homes, prevent homelessness and overcrowding, and to avoid the blight of empty houses in neighborhoods.”

“The pandemic’s hardest-hit families deserve their fair share of relief and a Homeowner Assistance Fund can help struggling homeowners remain safe as the health crisis continues,” said **Nikitra Bailey, executive vice president at the Center for Responsible Lending**. “A critical lesson of the Great Recession is that the communities most impacted need aggressive, targeted, early intervention. Acting now is the most cost-effective way to avoid a foreclosure crisis that is totally avoidable. Black and Latino communities unnecessarily lost more than \$1 trillion during the last crisis because the help came too late. Failure to act will once again result in devastating consequences.”

“The damage done by foreclosures doesn’t stop with individual homes and families, but extends to entire communities,” said **Julia Gordon, president of the National Community Stabilization Trust**. “Adding foreclosures into the mix of public health and economic effects of COVID-19 could trigger a downward market spiral that’s hard to break, especially for neighborhoods already on the edge. The Homeowner Assistance Fund is the ounce of prevention we need to prevent a much larger

problem later.”

“Given the devastating — and unequal — impacts of the economic crisis that has accompanied the pandemic, many homeowners won’t be able to just pick up where they left off,” said **Lisa Sitkin, senior staff attorney of the National Housing Law Project**. “In order to stave off foreclosures that will destabilize and strip wealth from the very families and communities most harmed by the pandemic, the federal government must provide accessible and flexible dollars to help homeowners facing ongoing income reductions and overdue property tax bills and other pressing housing costs.”

“Millions of homeowners are behind on their mortgages because of the COVID-19 pandemic.” said **Linda Jun, senior policy counsel at Americans for Financial Reform**. “Facing the most economic distress and illness, low-income families and communities of color are most at risk of losing their homes to foreclosure without relief. The Homeowner Assistance Fund is a necessary measure to stem the impending foreclosure crisis and prevent devastating losses for families and neighborhoods. We urge Congress and the Biden Administration to provide homeowners with the assistance they need to protect their homes.”

“We cannot risk losing another generation of wealth in Black and Latinx communities,” said **Christie Peale, executive director and CEO of the Center for NYC Neighborhoods**. “Nearly half of the wealth of Black and Latinx families disappeared as a result of the 2008 recession largely due to foreclosures, and we need to act now to ensure this does not happen again. The Homeowner Assistance Fund has the potential to stem what could be a catastrophic housing crisis in the U.S. when so many neighborhoods are still trying to recover. We urge Congress and the Biden Administration to act quickly to pass the Homeowner Assistance Fund and save our communities.”

“It’s imperative that we do all we can to prevent another foreclosure crisis, one that will disproportionately strip wealth from our most vulnerable communities. The next COVID package needs to include homeowner assistance funds,” said **Doug Ryan, senior fellow at Prosperity Now**.

“Millions of homeowners lost their homes to foreclosure during the Great Recession of 2008-2013 because the Obama Administration let the banks set the terms for loan modifications and the Senate failed to pass legislation to help,” said **Law Finfer, on behalf of Faith in Action National Network and Massachusetts Communities Action Network**. “But, we can do it right this time. This legislation of Senators Brown and Reed filed today will help. We need direct aid to homeowners needing financial help to prevent foreclosure, funding housing counseling, and policies requiring banks to cooperate with forbearance for homeowners.”

The Homeowner Assistance Fund would allow for direct payments to help homeowners with:

- Mortgage payments;
- Property taxes;
- Property insurance;
- Utilities; and
- Other housing related costs

According to the U.S. Census Bureau’s Household Pulse Survey, 24.7% of Black borrowers and 19.8% of Hispanic borrowers are not current on their mortgage payments, compared to just 8% of white borrowers. Many homeowners lack access to government-backed programs and will lose their homes without this direct financial assistance, including 700,000 borrowers who have private loans and not covered by the prior CARES Act and many homeowners, including seniors, who are facing tax foreclosures.

For more information about the pressing need for the Homeowner Assistance Fund, please see this issue brief by the Center for NYC Neighborhoods and the National Consumer Law Center.

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Leading Civil Rights Groups Commend President Joe Biden’s Executive Action to Advance Fair Housing and Racial Equity

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Washington, D.C. — Today, leading civil rights groups commended President Joe Biden for taking action to advance racial equity for Americans in the first days of his term. The civil rights community asked the Biden-Harris Administration to take this critical step — to name racial justice as a key pillar of a comprehensive strategy to advance equality in the U.S. and help undo the legacy and damage caused by centuries of discriminatory and unfair policies and practices. In issuing the Memorandums and Executive Orders, President Biden stated, “We need to make equity and justice part of what we do every day.” He also vowed to “make progress to eliminate systemic racism in every branch of the White House and the federal government.”

Civil rights groups voiced support, in particular, for the fair housing-related executive action, “Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies,” which recognizes the central role the federal government has played in implementing and continuing discriminatory housing practices throughout the United States. It also directs the Department of Housing and Urban Development (HUD) to look into the negative impacts the previous administration had on fair housing policies and laws, and ensures HUD will take the necessary steps to fully implement the Fair Housing Act and its requirements.

The four executive actions were signed to:

- Direct HUD to take steps necessary to redress racially discriminatory federal housing policies that have contributed to wealth inequality for generations;
- End the Department of Justice’s (DOJ) use of private prisons;
- Commit the government to respecting Tribal sovereignty and strengthen the Nation-to-Nation relationship between the United States and Tribal Nations; and

- Combat xenophobia against Asian Americans and Pacific Islanders.

We applaud the Administration and are encouraged by its commitment to addressing systemic discrimination and upholding fair and equitable housing policies.

“Where you live matters because place is inextricably linked to opportunity,” **said Lisa Rice, President and CEO of the National Fair Housing Alliance.** “Unfortunately, housing segregation remains the primary driver of inequality in the U.S., where neighborhoods of color are less likely to have well-resourced schools, living wage jobs, healthcare facilities, full-service groceries, fitness centers, green spaces, and bank branches, but more likely to have hazardous and toxic facilities, and polluted land, air, and water. We are glad that the Biden-Harris Administration understands these structural barriers to housing equity and intends to be a partner in implementing fair housing priorities that ensure everyone has access to decent, affordable housing in healthy, vibrant, well-resourced communities free from discrimination. We look forward to continuing this important work together.”

“We applaud the Biden-Harris Administration for issuing today’s Presidential Memorandum, an important first step in returning the Department of Housing and Urban Development (HUD) to its critical role in enforcing the Fair Housing Act and ensuring that Black and Brown communities are not discriminated against. The Trump Administration’s targeting of multiple housing protections, including the disparate impact rule and the Affirmatively Furthering Fair Housing Rule, will need to be fully analyzed to understand the real impact of those actions and HUD must move quickly to reverse the harmful impacts it discovers,” **said Lisa Cylar Barrett, Director of Policy, NAACP Legal Defense and Educational Fund, Inc.**

“President Biden took actions today that constitute a critical first step by his administration to address injustices that are holding our country back. Prioritizing racial equity is needed at the outset and fully implementing the Fair Housing Act of 1968 as part of a comprehensive racial equity agenda is essential to expanding opportunity for all Americans. These actions give Black and brown families an opportunity to live free of discrimination and participate fully in the economy. We look forward to working with the new administration in a continued focus on racial equity,” **said Nikitra Bailey, Executive Vice President, Center for Responsible Lending.**

“We applaud President Biden’s Memorandum ‘Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies,’” **said Diane Glauber, Director, Fair Housing and Community Development, Lawyers’ Committee for Civil Rights Under Law.** “This is an important first step to ensuring that HUD commits to its mandate to affirmatively further fair housing and undertakes the restoration of the 2015 Affirmatively Furthering Fair Housing rule.”

“Marginalized communities, especially those of color, have suffered because of the Department of Housing and Urban Development’s irresponsible attempts to weaken the Fair Housing Act and other protections during the previous administration. Though progress has been set back by years, we are pleased to see that the Biden Administration is taking immediate action to promote fair housing and opportunities to individuals and families. We will continue to advocate for more protections to address the systematic racism by housing providers, financial institutions, and insurance companies that deprive people of the services and opportunities they need,” **said Rob Randhava, Senior Counsel, The Leadership Conference on Civil and Human Rights.**

“President Biden’s executive orders on racial equity are an important step forward in addressing systemically racist practices in housing, financial services, and criminal justice,” **said Richard Dubois, Executive Director of the National Consumer Law Center.** “For too long, communities

of color have been denied wealth building opportunities, stripped of resources, and unable to build a financial buffer to withstand the financial harm, made worse by the COVID-19 pandemic. The National Consumer Law Center looks forward to working with the Biden Administration to fight discrimination and advance the rights of all consumers to access fair and sustainable financial products and services.”

“We applaud the Biden-Harris Administration for swiftly addressing equity and working to erase the damage done by the last administration,” said **Shamus Roller, Executive Director, National Housing Law Project**. “Criminal justice disparities, government-sanctioned policies like redlining, and entrenched patterns of segregation make identifying and ending housing discrimination extremely difficult. Despite progress made to expand housing opportunities since the passage of the Fair Housing Act in 1968, housing discrimination is still very real across the country, and this action takes us in the right direction.”

“We are glad to see the Administration’s recognition of systemic racism and the deep and pernicious impacts it has had across generations, including in our housing policies. This must be a call not only to undo the damage of the last administration, but to fully and affirmatively harness our government’s own programs for fair housing and racial justice. Together with our civil rights partners, we look forward to engaging with HUD, Transportation, Treasury and other agencies on these crucial issues,” said **Megan Haberle, Deputy Director, Poverty & Race Research Action Council**.

“We applaud President Biden for the actions he took today to advance racial equity and support underserved communities, including the Executive Order on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies. We appreciate his recognition of the role the federal government has played in creating and perpetuating housing segregation and exclusion.” said **Linda Jun, Senior Policy Counsel at Americans for Financial Reform**. “At a time when communities of color are bearing the brunt of the devastation from the COVID-19 pandemic, in part because of the continuing effects of housing and economic discrimination, we appreciate the administration’s commitment to combating racial inequality and look forward to working with the Biden Administration on specific measures to advance housing equity and justice.”

“I applaud President Biden for signing four executive orders today that will help advance the goal of racial equity,” said **Jesse Van Tol, CEO of the National Community Reinvestment Coalition**. “The order directing HUD to address the nation’s long history of systemic racism in housing is of particular importance to us. Acknowledging the federal government’s role in perpetuating segregation, including the lasting impacts of redlining, is essential to addressing America’s ever growing racial wealth divide. Home ownership is the cornerstone of the American Dream. It is the primary way that families accumulate wealth, and it has long been denied to people and communities of color. Giving HUD the authority to re-evaluate past measures and make changes to advance fair housing, combat housing discrimination and fully enforce the Fair Housing Act, is the right first step.”

“NLIHC applauds President Biden for taking action to advance racial equity in housing,” stated **Diane Yentel, President and CEO of the National Low Income Housing Coalition**. “The executive order signed today is an important step in the right direction. Decades of racist federal housing and transportation policies created today’s segregated communities, with tremendous negative consequences for Black Americans, other people of color, and the entire country. NLIHC and our members and partners look forward to working with President Biden and the HUD Secretary-designate to not only reverse President Trump’s efforts to gut fair housing and civil rights protections, but to advance anti-racist housing policies to eliminate the racial discrimination and

racial disparities reflected in America's housing and homelessness crisis."

National Consumer Law Center Statement on the Capitol Siege and Our Commitment to Racial Equity as We Celebrate the Life and Work of Martin Luther King, Jr.

January 15, 2021

By Richard Dubois, Executive Director

Washington, D.C.- In his iconic speech at the March on Washington for Jobs and Freedom in 1963, the Rev. Dr. Martin Luther King, Jr. urgently appealed to his fellow Americans to make real the promise of democracy. The decades-long campaign by activists for racial justice culminated with passage of the Civil Rights Act of 1964, outlawing segregation and employment discrimination, swiftly followed by the Voting Rights Act of 1965, which allowed for the inclusion of Black citizens and other Americans in the democratic process.

More than 50 years have passed since Dr. King's assassination but as the horrific events last week show, the fight against deeply ingrained racism is far from over. We were all reminded of our nation's bloody history of racist voter suppression, violence, and anti-Semitism as white supremacists laid siege to the U.S. Capitol.

NCLC condemns the mob attack on our democracy. This violent insurrection will not thwart the transition of power, nor diminish our resolve to fight for economic and racial justice. At the same time, we are heartened by signs of progress. Participation in the last election was historic, especially among Black voters in states like Georgia with a long and ugly history of voter suppression. We hope this marks the start of a new era of true democracy and equality.

NCLC looks forward to working with the new administration and Congress to protect consumers against abusive and predatory financial products, and to restore important protections gutted by the Trump administration. We will defend and protect key civil rights statutes, such as the Fair Housing Act, passed just seven days after Dr. King's assassination in tribute to his fight for housing justice. We reaffirm our commitment to advancing racial equity and justice, and ensuring that all consumers have the full benefit of the freedom and rights that Dr. King and other civil rights activists fought so hard to secure.

Report: Survey of State Student Protection Funds that Help Students Harmed by Higher Education Fraud

FOR IMMEDIATE RELEASE: January 14, 2021

National Consumer Law Center contact: Jan Kruse (jkruse@nclc.org)

Download the full report, a map, charts on state student protection funds (SPFs), and a SPF evaluation checklist for advocates and legislators at: <http://bit.ly/state-tuition-fraud-info>

Boston - When a college education is cut short by a school closure or a school engages in fraud, the students and their families suffer long-term financial distress. Many end up owing thousands in student loan debt they cannot repay, having earned worthless and non-transferable college credits. The vast majority of harmed students are blocked from even receiving federal debt relief due to complex procedural hurdles imposed by the U.S. Department of Education. A new report, *How States Can Help Students Harmed by Higher Education Fraud* by National Consumer Law Center attorneys Robyn Smith and Joanna K. Darcus, lays out a roadmap for how states, through the creation or strengthening of Student Protection Funds (SPFs), can provide desperately needed financial relief to help students recover from the severe economic setbacks caused by higher education fraud or sudden school closure.

Over the last 10 years, several large for-profit school chains, including Corinthian Colleges, ITT Tech, The Art Institutes, and Education Corporation of America, deceived hundreds of thousands of students into taking on enormous debts for worthless educations, and then suddenly closed, leaving financial ruin and trauma in their wake. "The federal government has failed to provide full federal loan cancellation for the vast majority of these borrowers, while most of them also struggle with enormous private debt burdens with no relief in sight," **said co-author Robyn Smith.** "To prevent dire economic harm to students recruited by fraudulent schools or harmed by sudden school closures in the wake of the COVID crisis, state legislatures can make a huge difference by implementing strong Student Protection Funds at no cost to taxpayers."

The for-profit school industry, in particular, is already taking advantage of the COVID crisis and aggressively recruiting new students into distance education programs. Students who enroll in out-of-state distance education programs are particularly likely to be left in the lurch. Every state except California has entered into an agreement (called the Uniform State Authorization Reciprocity Agreement or SARA) that prohibits member states from collecting fees for their SPFs from out-of-state distance education schools. The result is that students in SARA member states who enroll in these out-of-state schools are not eligible for relief in their home states and they are often not eligible for relief in the state where the school is located.

Higher education fraud, when unaddressed, devastates families and their communities, disproportionately impacting low-income, people of color, and women, who start out economically disadvantaged. Harmed students not only lose the years they spend attending classes for an illusory promise of a high-paying career. They also lose the savings, grants, and student loan proceeds they use to fund tuition, books, child care, and other college-related expenses. If these students cannot obtain debt relief, they pay for their schools' fraud through a lifetime of debt collection, negative credit histories that make it difficult to find housing and employment, and reduced opportunities for economic advancement.

Key Recommendations

Currently, only 20 states have SPFs and most fail to provide adequate relief to harmed students. The report describes specific ways states can amend their laws to strengthen or create SPFs. The ideal SPF would do all of the following:

- Maintain sufficient funds to pay all student claims and administrative costs;
- Require each school to fund a surety bond sufficient to reimburse the SPF for losses caused by that school;
- Be maintained as one single fund that covers all for-profit schools, including degree-granting schools and out-of-state schools offering distance education programs, as well as sham private nonprofit schools that financially benefit their board members or owners;
- Provide relief to borrowers who suffer from illegal school conduct, not just from sudden school closures;
- Provide relief to parents and other people who financially contribute to a student's education;
- Establish a SPF claims limitations period, if any, that does not expire as long as any student debt holder can seek repayment from the student;
- Fully reimburse claimants for their total economic loss, including for all loans, grants, and cash obtained by them or on their behalf to allow them to enroll in a higher education program;
- Provide relief based on group claims submitted by law enforcement agencies; and
- Timely resolve SPF applications.

In addition, state agencies should:

- Facilitate widespread student access to SPF relief through an easily accessible claims process; and
- Provide periodic public data regarding SPFs to state legislatures and governors.

Get more information about NCLC's policy work on student loans. Sign up for NCLC's Student Loans blog and visit NCLC's Student Loan Borrower Assistance Project to get information on student loan rights and responsibilities for borrowers and advocates.

Related Materials:

NCLC Report: Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools, June 2014, Update to Step 2: Protecting Online Education Students, Dec. 2015