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**Testimony of Joanna Darcus, MLAC Racial Justice Fellow
Student Loan Borrower Assistance Project at the National Consumer Law Center
Before the Joint Committee on Consumer Protection and Professional Licensure
In Support of An Act Establishing a Student Tuition Recovery Fund (S112/H627)**

June 6, 2017

Good afternoon and thank you, Chairwoman L’Italien, Chairwoman Benson, and committee members for this opportunity to testify. My name is Joanna Darcus, and I am an attorney at the National Consumer Law Center (NCLC). NCLC’s Student Loan Borrower Assistance Project provides information about student rights and responsibilities to borrowers and advocates, and provides direct legal representation to student loan borrowers. Today, I speak on behalf of our low-income clients, and in support of Senate Bill 112 and House Bill 627.

If passed, Massachusetts would join the more than 20 states that have already established student tuition recovery funds.¹ The proposed legislation would set Massachusetts apart, nonetheless, because it would create what is perhaps the strongest student tuition recovery fund in the country. Taking this step would go a long way toward providing vital protections to students when the for-profit schools they attend rip them off.

The most recent spate of for-profit school misconduct and closures has not spared Massachusetts. Since 2013, more than 30 for-profit schools have shuttered programs or ceased operations altogether in Massachusetts, affecting thousands of students and their families.² ITT Technical Institutes closed last September.³ The Everest Institutes in Brighton and Chelsea

¹ National Consumer Law Center’s Student Loan Borrower Assistance, State Programs, <http://www.studentloanborrowerassistance.org/loan-cancellation/state-programs/>.

² Massachusetts Division of Professional Licensure, Closed School Bulletins, <http://www.mass.gov/ocabr/government/oca-agencies/dpl-lp/schools/closed/bulletin/closed-schools-bulletins.html>.

³ News Release, “ITT Educational Services, Inc. to Cease Operations at all ITT Technical Institutes Following Federal Actions,” Sept. 6, 2016, <http://www.ittesi.com/2016-09-06-ITT-Educational-Services-Inc-to-Cease-Operations-at-all-ITT-Technical-Institutes-Following-Federal-Actions>.

(operated by Corinthian Colleges, Inc.) closed in 2014.⁴ Sullivan and Cogliano Training Centers, Inc. closed certain programs in Massachusetts that year, too.⁵ State and federal regulators took enforcement actions against these schools for violations of law and their students' trust, as well as against schools that remain in operation.

Massachusetts is fortunate to have an Attorney General at the forefront of the fight for student rights and borrower protections. Free or affordable legal help is in short supply for students who have paid their last dollar to attend a school that took their money, but did not deliver on the promise of education and employment prospects. That is why it is especially important for the Attorney General's Office to take on the fight for the good of all. To that end, the Attorney General has taken enforcement actions against for-profit schools, and then administered settlements and disbursed money to students. The Office has also helped students apply for federal loan relief. Although it can often take months or years to resolve lawsuits, conclude settlement negotiations, or receive federal loan relief, students cannot always afford to wait. This is where the new student tuition recovery fund comes in. It would enable the Attorney General to grant immediate relief to students who are at imminent risk of harm from debt collection activity—even before the Office resolves an enforcement action.

Further, the Fund would make more money available to repay defrauded students because even successful enforcement actions do not always lead to full refunds. Since for-profit schools would be required to pay annual assessments into the Fund, students and taxpayers would not be on the hook if schools broke the law, broke their promises to students, or closed their doors. Moreover, unlike the surety bonds required of some schools, additional funds could be raised if those on hand were insufficient. As administrator of the Fund, the Attorney General's Office would be empowered to require additional assessments, ensuring the availability of funds to repay all affected students. In this way, Massachusetts would hold for-profit schools accountable for their misconduct instead of requiring victims or the public to bear the cost.

The Fund would also ensure that more students are likely to receive relief. The design of the Fund acknowledges the many means by which students finance their educations. It would go beyond the relief available through the current federal programs, as the Fund would enable students to recoup much more of the money they invested in their educations. Because higher education is very expensive,⁶ many students and their families work hard and pay cash for some of the costs of attending school. Many families, especially low-income families, receive grant

⁴ Closed School Bulletin: <http://www.mass.gov/ocabr/docs/dpl/os/closed/bulletin/bulletin-no1-everest-institute.pdf>.

⁵ Closed School Bulletin: <http://www.mass.gov/ocabr/docs/dpl/os/closed/bulletin/bulletin1-sullivan-cogliano.pdf>.

⁶ See The Institute for College Access & Success, "College Costs in Context: A State-by-State Look at College (Un)Affordability," April 27, 2017, available at <http://ticas.org/content/pub/college-costs-context>; Adam Looney & Constantine Yannelis, "A Crisis in Student Loans? How Changes in the Characteristics of Borrowers and in the Institutions They Attended Contributed to Rising Loan Defaults," Brookings Institute (Fall 2015), available at <https://www.brookings.edu/wp-content/uploads/2015/09/LooneyTextFall15BPEA.pdf>.

aid that makes their educations more affordable. Still other families rely on private student loans to pay for school.

A student tuition recovery fund is particularly necessary because federal relief is neither comprehensive nor guaranteed. It is true that defrauded students who borrowed federal loans may be eligible for relief from the U.S. Department of Education. For instance, borrowers of federal loans may apply for closed school, false certification, or borrower defense to repayment discharges. However, even students who receive complete discharges of their federal loans will not be made whole if they used additional means to finance their studies. If created, Massachusetts's Fund would reimburse students not only for their federal student loans, but also for their entire economic loss. That includes their hard-earned cash, nonrenewable grant aid, and the value of the private student loans they borrowed.

As part of the Student Loan Borrower Assistance Project, my colleagues and I represent low-income student loan borrowers who live in Massachusetts. Many of our clients, like their fellow students at for-profit schools,⁷ are women of color, who pursued higher education to obtain gateway credentials that would enable them to provide economic stability for their families. When their schools provided little in the way of education or employment prospects, our clients' hopes were dashed, but their loans and losses remained. When their debts are resolved, they are less likely to face debt collection activity or other barriers to completing their educations elsewhere.

Since federal relief is limited and students have few alternatives, states like Massachusetts can fill the gaps and provide crucial relief for students. Thank you for proposing and considering this Act Establishing a Student Tuition Recovery Fund.

⁷ Kevin Miller, "Deeper in Debt: Women and Student Loans," AAUW (May 2017), *available at* <http://www.aauw.org/research/deeper-in-debt/>.