

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
Informational Statement
LCB FILE NO. R120-23
(NRS 670B and 675- AB 332- Student Loan Servicers/Lenders)**

The following statement is submitted for adoption of regulations pertaining to Nevada Administrative Code (“NAC”) Chapter 670B and 675, Student Loan Servicers/Lenders.

1. A clear and concise explanation of the need for the adopted regulation.

The regulation is required as a result of the passage of Assembly Bill 332 (“A.B. 332”) during the 82nd Session of the Nevada Legislature. A.B. 332 authorizes the Commissioner of the Financial Institutions Division to adopt regulations for the administration and enforcement of student loan servicers.

This regulation is needed to establish fees related to licensure and regulation, defining certain terms, establish requirements for applicants and licensees, and other matters properly relating thereto.

2. A description of how public comment was solicited, a summary of public response, and explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notice of workshop, small business impact statement, and notice of intent to act upon the regulation were emailed to the Division licensees, Division’s rulemaking contact list, persons who were known to have an interest in the regulation as well as any person who had specifically requested such notice. These documents were also made available on the Financial Institutions Division’s website at <http://fid.nv.gov/> on the Nevada Public Notice website at <https://notice.nv.gov/gov> and on the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>; posted at the Division’s principal office in Las Vegas; and provided to the Nevada State Library & Archives.

On August 30, 2023, via email, the Division notified 751 individuals, this included its licensees and persons on the Division’s rulemaking contact list concerning the proposed regulation, provided a copy of the proposed regulation, and solicited written comments concerning whether it would impose a direct and significant economic burden upon a small business that is subject to NRS 670B and NRS 675, or directly restrict the formation operation, or expansion of a small business that is subject to NRS 670B and NRS 675.

In response to the August 30, 2023, solicitation, the Division’s record reflects receipt of twelve (12) small business impact surveys. One (1) with comment, one (1) responded N/A, and ten (10) with over 150 employees. Attached summary of comments received from the small business impact survey are attached hereto as “Exhibit A.”

On November 9, 2023, the Division issued and posted a notice of the workshop, and sent via email to 663 individuals, this included its licensees and persons on the rulemaking contact list. The workshop was held on November 29, 2023, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the workshop are attached hereto as “Exhibit B.” The minutes reflect receipt of any verbal and/or written comments.

On April 19, 2024, the Division issued and posted a notice of a second workshop, and sent via email to 563 individuals, this included its licenses and persons on the rulemaking contact list. The workshop was held May 8, 2024, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the second workshop are attached hereto as “Exhibit C”. The minutes reflect receipt of any verbal and/or written comments.

The Legislative Counsel Bureau (LCB) posted its draft of proposed regulation R120-23 on August 30, 2024. On September 6, 2024, the Division issued and posted a notice of intent to act upon regulation based upon LCB draft proposed regulation R120-23, along with a notice of public meeting and solicited further written comments on the proposed regulation. On the same day, the Division sent via email to 822 individuals, this included its licensees and persons on the rulemaking contact list. The adoption hearing was held on October 10, 2024, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Microsoft Teams. Minutes of the hearing are attached hereto as “Exhibit D”. The minutes reflect receipt of any verbal and/or written comments.

3. The number of persons who:

Attendees that signed in at the November 29, 2023 workshop: 6

Testified at the workshop: 3

Submitted written comments: 1

Attendees that signed in at the May 8, 2024 second workshop: 10

Testified at the hearing: 3

Submitted written comments: 1

Attendees that signed in at the October 10, 2024 adoption hearing: 6

Testified at the hearing: 0

Submitted written comments: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified in #3, above, as provided to the agency.

Attended the November 29, 2023, workshop:

| Name | Company | Email Address |
|-----------------------|------------------------------------------------------------|-------------------------------|
| Kathryn Gamelin | Branch Messenger, Inc. | kathryn.gamelin@branchapp.com |
| David McGee | Venable LLP | damcgee@venable.com |
| Aaron Marienthal | Payactiv, Inc. | amamienthal@payactiv.com |
| Deepa Chatterjee | Ceridian | deepa.chatterjee@ceridian.com |
| Heather Heebner | Instant Financial USA Inc | heather.heebner@instant.co |
| Fausto Burruel | Arizona Department of Insurance and Financial Institutions | fausto.burruel@difi.az.gov |
| Nicole Miller | Activehours, Inc. d/b/a EarnIn | nicole.miller@earnin.com |
| Garth McAdam | ZayZoon | garth.mcadam@zayzoon.com |
| Hamel Kothari | Brigit | hamel@hellobrigit.com |
| Amanda Vaskov | private citizen | aavaskov28@gmail.com |
| Scott Buchanan | Ex. Director | scott.buchanan@sisa.net |
| Christina Rock | | christina.rock@pheaa.org |
| Ferrari Reeder | | hannah@ferrarireeder.com |
| Kelly Wuest | | kdwuest@detr.nv.gov |
| Kim | | kimberly.myers@pheaa.org |
| Winston Berkman-Breen | | winston@protectborrowers.org |

Attended the May 8, 2024, workshop:

| Name | Company | Email |
|---------------------------------------------------|---------|----------------------------------------------------------|
| Amanda Vaskov | | aavaskov28@gmail.com |
| Belz & Case Government Affairs- Scribe by Rewatch | | cbf45a43-4cea-3d0a-88d6-f56d3d1b04fe@appid.ciscopark.com |
| Christina R. | | christina.rock@pheaa.org |
| J Downey | | jdowney@kheaa.com |
| Jeremy Hoffman | | jhoffman@studentloan.org |
| Kevin | | kevin.baird@dontbroke.com |
| Kyle W | | kyle@lmi.edu |
| Sabrina Schnur | | ss@belzcase.com |
| Scott Buchanan | | scott.buchanan@sisa.net |
| Winston Berkman-Breen, he/him, SBPC | | winston@protectborrowers.org |

Attended the October 10, 2024, hearing:

| Name | Company | Email / Phone Number |
|-------------------|-------------------------------|-------------------------------------------------------------------------------------------|
| White, Christina | | ChristinaWh@mohela.com +17177202000_b4303e6bb8d4414c87d54e6c35ab8f32 (Unverified) |
| luke (Unverified) | | |
| Myers, Kimberly A | | kimberly.myers@pheaa.org |
| Evelyn Castro | Nevada State Treasurer Office | ecastro@nevadatreasurer.gov +18087812996_f077194602cb45728ce91da6b034ab5a (Unverified) |

5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public (see item 2 above). A summary of responses can be found in the minutes to the workshops and the hearing (Exhibits B, C and D) and small business impact statement (Exhibit A). Copies of these materials can be obtained by contacting Mary Young, Financial Institutions Division at fidmaster@fid.state.nv.us or mmyoung@fid.state.nv.us or 702-486-4120 or by visiting the Division website: www.fid.nv.gov

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The initial agency draft regulation, after considering comments from the small business impact survey, was submitted to LCB on November 9, 2023 (see “Exhibit E”). LCB completed its review and provided its draft regulation dated August 30, 2024.

At the conclusion of the noticed public hearing on October 10, 2024, the permanent regulation was adopted in the form proposed and reflected in the LCB Draft of Proposed Regulation R120-23 dated August 30, 2024.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

(a) Both adverse and beneficial effects.

Adverse effects. The majority of the comments received were regarding processes and more technical in nature.

One comment received during the small business impact survey was related to the requirement to maintain bank and accounting records of accounts collected and remitted on, sending annual notices to borrowers with more than one loan being serviced, and sending monthly statements to borrowers would increase operating costs and complexity and that it would require more engineering resources to develop systems to comply. These provisions are necessary for borrowers, and licensees should maintain up-to-date and accurate records. This should not cause any additional requirements since this should be part of a servicer’s normal course of business.

Another comment received during the first workshop was the surety bond amount was too high for smaller servicers. The Division reduced the surety bond amount based upon the dollar amount of servicing activities.

Beneficial effects. The Division did not receive comments regarding economic benefit from this regulation. There was comment received for the need to regulate student loan servicers.

(b) Both immediate and long-term effects.

The proposed regulations will provide regulatory clarity and certainty for their businesses to continue to grow and operate in the state of Nevada.

The Division has determined that the proposed regulation does not have an adverse economic impact on small business.

8. The estimated cost to the agency for the enforcement of the adopted regulation.

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

To the best of the Division's knowledge, the adopted regulation does not duplicate any existing federal, state, or local standards regulating the same activity.

10. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

To the best of the Division's knowledge, the adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

11. If the regulation provides a new fee or increase an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation provides new fees established by the passage of the legislation and the amount the Division expects to collect based on the number of companies expected to be licensed, which is approximately 42 entities.

The 1st Year → \$75,600 (Based on the application fee of \$800.00 and initial licensing fee of \$1,000 for 42 entities).

The 2nd Year → \$199,500 (Based on yearly renewal fee of \$1,000 and hourly examination Fee of \$75 with the average examination projected to take approximately 50 hours to complete). It is also expected that the following yearly examinations will not take 50 hours to complete thus lowering this cost in future years.

There is also an annual Certified Public Accountant (CPA) assessment and Attorney General (AG) assessment. The CPA assessment covers the expenses to employ the CPA and no more than the projected expenses are assessed to the licensees. The AG assessment covers the amount the Division is assessed by the AGs Office and no more than the assessed amount. The total projected

expense for each the CPA and AG is divided among all licensees the Division regulates, not just this industry, keeping the total assessment per licensee at a minimal.

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(Note: all figures provided above are best estimates and/or approximations based on information currently available)

Enclosed:

Exhibit A – Small Business Impact Statement

Exhibit B – Minutes of November 29, 2023, Workshop on R120-23

Exhibit C - Minutes of May 8, 2024, Second Workshop on R120-23

Exhibit D – Minutes of October 10, 2024, Adoption Hearing on R120-23

Exhibit E – Initial Draft of Proposed Regulation Submitted to LCB on November 9, 2023

“EXHIBIT A”

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY
THE FINANCIAL INSTITUTIONS DIVISION (Division)
TO ASSEMBLY BILL (AB) 332
STUDENT LOAN SERVICERS
September 13, 2023**

1. Small Business Impact Statement pursuant to NRS 233B.0609:

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(I) Solicitation of affected small businesses.

The Division sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to engage in or who desire to engage in the business of a student loan servicer and/or making private student loans, to ensure that there is established in this state an adequate, efficient and competitive service available to the general public.

The Division composed the solicitation list from current licensees under Nevada Revised Statutes chapter 649 and chapter 675 and all known interested parties. In turn, the Division solicited comments on the proposed regulations for Assembly Bill 332 (A.B.332) from the above lists by emailing a notice and questionnaire. Additionally, a copy of the full text of the proposed regulations was emailed and posted to the Division’s website. The solicited comments were used to formulate this Small Business Impact Statement.

(II) Summary of responses.

See attached spreadsheet.

(III) Obtain a copy of the summary.

This Small Business Impact Statement was posted on the NFID website dated November 13, 2023, along with a Notice of Workshop for November 29, 2023. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner
Financial Institutions Division
3300 W. Sahara Avenue, Suite 250
Las Vegas, NV 89102
Email: FIDMaster@fid.state.nv.us
Telephone: (702) 486-4120
Website: <http://fid.nv.gov>**

(b) The manner in which the analysis was conducted.

Pursuant to NRS 233B.0608(1), the Division made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. For this effort, the Division sent a copy of the draft regulations and a Small Business Impact Questionnaire to all known interested parties for review and invited written comment regarding the impact to the entities, NFID took all comments submitted into consideration.

Following review and analysis of the authorizing statutory language A.B.332 and written comment from the industry, the Division has determined that the proposed regulation is unlikely to impose a direct and significant economic burden upon a small business; result in any direct or indirect adverse effects on small business; or directly restrict the formation, operation, or expansion of a small business.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:

(1) Both Adverse and Beneficial effects:

(I) ADVERSE EFFECTS:

The Division received one comment regarding the requirement to maintain bank and accounting records of accounts collected and remitted on, sending annual notices to borrowers with more than one loan being serviced, and sending monthly statements to borrowers would increase operating costs and complexity and that it would require more engineering resources to develop systems to comply.

These provisions are necessary for borrowers and licensees should maintain up-to-date and accurate records. This should not cause any additional requirements since this should be part of a servicer's normal course of business.

(II) BENEFICIAL EFFECTS:

The Division received zero comments regarding any beneficial effects the proposed regulations would have on small business.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

The Division received one comment regarding the requirement to maintain bank and accounting records of accounts collected and remitted on, sending annual notices to borrowers with more than one loan being serviced, and sending monthly statements to borrowers would increase operating costs and complexity and that it would require more engineering resources to develop systems to comply.

These provisions are necessary for borrowers and licensees should maintain up-to-date and accurate records. This should not cause any additional requirements since this should be part of a servicer's normal course of business.

(II) INDIRECT EFFECTS:

The Division received one comment regarding the requirement to maintain bank and accounting records of accounts collected and remitted on, sending annual notices to borrowers with more than one loan being serviced, and sending monthly statements to borrowers would increase operating costs and complexity and that it would require more engineering resources to develop systems to comply.

These provisions are necessary for borrowers and licensees should maintain up-to-date and accurate records. This should not cause any additional requirements since this should be part of a servicer's normal course of business.

The same commenter stated posting the contact information for borrowers to contact the Division would make their website look even more busy/crowded. Its important for Nevada borrowers to know how to contact the Division to file consumer complaints or ask the Division questions.

(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The Division sent out 751 small business questionnaires to all known interested parties. It received a total of twelve (12) responses to the solicitation. One (1) small business provided comment, one (1) responded with N/A or no impact, and ten (10) responded with no comment because they were over the small business threshold of 150 employees. The Division has considered and analyzed all submitted comments and addressed those comment in the attached summary of response spreadsheet.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

(f) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect, and the manner in which the money will be used.

The 1st Year → \$75,600 (Based on the application fee of \$800.00 and initial licensing fee of \$1,000 for 42 entities).

The 2nd Year → \$199,500 (Based on yearly renewal fee of \$1,000 and hourly examination Fee of \$75 with the average examination projected to take approximately 50 hours to complete). It is also expected that the following yearly examinations will not take 50 hours to complete thus lowering this cost in future years.

There is also an annual Certified Public Account (CPA) assessment and Attorney General (AG) assessment. The CPA assessment covers the expenses to employ the CPA and no more than the projected expenses are assessed to the licensees. The AG assessment covers the amount the Division is assessed by the AG's Office and no more than the assessed amount. The total projected expense for each the CPA and AG is divided among all licensees the Division regulates, not just this industry, keeping the total assessment per licensee at a minimal.

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

To the Division's knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.

This is a result of the passage of new legislation, A.B. 332. The Division can only lessen the impact on small business by proposing regulation that provides clarification to the industry. The regulation itself does not impose an economy burden to small business.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this Small Business Impact Statement was prepared properly and accurate.



Sandy O'Laughlin
Commissioner
Financial Institutions Division
State of Nevada, Department of Business and Industry

AB332- Student Loan Servicers- Direct or

**Indirect Impact Item from Small
Businesses**

**Number/
and %**

**Direct or
Indirect**

**Adverse or
Beneficial**

NFID Answer/Mitigation

| | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Sections 16, 22 and 23 will increase operating costs and complexity and require more engineering resources to develop systems to comply with the new requirements.</p> | <p>1 (100.00%)</p> | <p>Direct</p> | <p>Adverse</p> | <p>Section 16 is bank records and accounting records of accounts collected and remitted, which is important for servicers to maintain.</p> <p>Section 22 is annual notices to borrowers with more than one loan being serviced.</p> <p>Section 23 provides the requires on a monthly statement.</p> <p>These provisions are necessary for the borrowers, and to keep accurate records of payments, of which servicers should already be doing. This should not cause any additional requirements; it just details what is required in Nevada.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Sections 22 and 23 will create a lot more operational burden and increase our risk of non-compliance. Section 25 will make our website look even more busy/crowded.</p> | <p>1 (100.00%)</p> | <p>Indirect</p> | <p>Adverse</p> | <p>Section 22 is annual notices to borrowers with more than one loan being serviced.</p> <p>Section 23 provides the requires on a monthly statement.</p> <p>These provisions are necessary for the borrowers, and to keep accurate records of payments, of which servicers should already be doing. This should not cause any additional requirements, it just details what is required in Nevada.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| | | | | |
|--|--|--|--|--------------------------------------------------------------------------------------|
| | | | | Section 25, it's important for Nevada borrowers to know how to contact the Division. |
| | | | | |

SBI Response Summary:

Total Known Interested Parties Solicited:
751

Total Responded with Comments: 1

Total Responded with N/A: 1

Total Responded with over 150 Employees (outside the small business threshold): 10

Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 740

% Responded/Total Solicited (12/751):
1.60%

% Responded with Comments/Total Comments Impacting SBI (1/740): 0.14%



**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Workshop to Solicit Comments on
Proposed Regulations A.B.332- Student Loan Servicers**

Date: Wednesday, November 29, 2023

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The workshop to consider A.B.332 was called to order Wednesday, November 29th at 10:02 a.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to student loan servicers, as provided by Assembly Bill No. 332, as described by the Notice of Workshop dated and posted on November 9, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

A summary of each section of the proposed regulations was read during the workshop.

Regulation Comments per Section:

Sections 3, 4, 5 and 6. There were written, and verbal comments received on section 6.

Written comments received prior to the workshop:

- The first comment for section 6 requested a change to the beginning of the section. The comment would like to add “except to the extent inconsistent with federal law or regulation”. The Division does not think it’s necessary to add such language since AB332 section 28 already has the language “Except to the extent inconsistent with federal law or regulation, a student loan servicer shall maintain a record of each transaction...”
- The next comment for section 6 is for subsection a, to remove “private education loan borrower” because “private education loan borrower is included in the definition of student loan borrower pursuant to AB332 sections 9 and 11. The Division would like this language to remain since the definition in AB332 section 11 is more expansive than section 9.
- The final written comment for section 6 is for subsection h. The reference to “private education lender” narrows the applicability of this provision to private education loans, excluding federal student loans. The commenter is requesting the Division to include federal student loans. The Division cannot add “federal student loans” since AB332 established the law for private education loans and not federal student loans.

Comments provided during the workshop:

- Scott Buchanan, Student Loan Servicing Alliance. Section 6. Would like clarification on what the trigger date for the retention period of not less than six years is. Generally, it’s when the loan is paid in full or when the loan is sold or transferred.

Mary Young, FID. I believe this is covered in the Bill. If it is not clear, we will consider adding language in the regulation.

- Winston Berkman-Breen, Student Borrower Protection Center. Comment on section 6 (h), it would be a benefit to add contracts from all types of student loans and not just private education loans or clarify subsection h is only applicable to private education loans because section 6 applies to all student loan servicer licensees not just private education lenders. Even though this section refers to private education lenders, it’s about servicers. A servicer could have access to a promissory note that can be private or federal student loan. Either clarify those type of loans is applicable or not holding a federal student loan servicer accountable for having private education loan contracts that they don’t actually service.

Mary Young, FID. Thank you for providing clarification. We will re-discuss this internally and see what changes we need to make to that section. We appreciate your comment.

- Amanda Vaskov, a private citizen. Just wanted to echo what Winston stated.

Sections 7, 8, 9, and 10. There was one written and one verbal comment on section 7, and one verbal comment on 8.

Written comments received prior to the workshop:

- One written comment on section 7. The commenter requested the Division to add “holders of private education loans” to make it clear holders of private education loans are required to obtain an NRS 675 license. AB332 section 7 subsection 1 already incorporates “holders of a private education loan” and is not required to be added to regulation. However, to ensure it is clear, we are proposing language as defined in section 7.1 of Assembly Bill 332 for the section to now read “For the purpose of sections 7(1) and 37 of Assembly 332, a private education lender, as defined in section 7.1 of Assembly Bill 332, extending private education loans or student education loans in this state or to private education loan borrowers or student loan borrowers in this state, must obtain an NRS 675 license from the Office of the Commissioner prior to engaging in lending activity”.

Comments provided during the workshop:

- Scott Buchanan, Student Loan Servicing Alliance. Section 8. Requesting FID to reconsider the surety bond amount. The \$250,000 amount is too high and could pose issues to smaller servicers. Requesting FID to assess what other states have done. California is \$25,000 and Virginia is \$50,000.

Mary Young, FID. Thank you for your comment. We will consider if that is an appropriate bond amount or not.

- Winston Berkman-Breen, Student Borrower Protection Center. Thank you for clarifying section 7 about private education lenders need a license. Wants to call attention to the Division what needs to be addressed. The holders of these loans that are defined as private education lenders but might not be required to get a 675 license because they are not lending, they are holding, acquiring the loans. How, if at all, the Commissioner needs to address obtaining information from them if they are not required to get a license as a servicer if not servicing or as a lender if not lending. For at least section 40 for monitoring purposes, the Commissioner might seek information from them and some regulatory mechanism that can be implemented to make that happen.

Mary Young, FID. Interesting. I do understand what you are saying. We will take a look at that. Thank you for your comment.

Sections 11, 12, 13, 14 and 15. There were five written comments and two verbal comments on section 15.

Written comments received prior to the workshop:

- The first comment section 15 subsection 5 was requesting clarification if the Division meant “accounts paid” or accounts that were “paid off”. The Division has clarified this subsection to add accounts paid in full and the amount of the original loans. This proposed subsection will now read: The number of accounts paid in full, with the amount of the original loans.
- The second comment on section 15 subsections 12 and 13, requested these sections be combined. The Division has determined to keep as two separate subsections and not combine them.
- The third comment on section 15 requested the Division to add the number of accounts for which a debt had court action initiated. The Division agreed and added a new subsection to section 15 to read: The number of accounts with court action initiated and status of those accounts.
- The fourth comment on section 15 requested to add a reporting requirement for the number of accounts that are federal student loans versus private education loans. The Division cannot add “federal student loans” since AB332 established the law for private education loans and not federal student loans. But is reevaluating this section.
- The final comment on section 15 requested to add a reporting requirement for the number of accounts with a cosigner. The Division will not add this additional reporting requirement. Section 15 does state “The Commissioner may request additional information at any time necessary. If the Division sees a need to request this information in the future, it has the authority to do so.

Comments provided during the workshop:

- Scott Buchanan, Student Loan Servicing Alliance. Strong concerns regarding section 15 subsection 1. Requiring individual borrower private financial account information to the Division without borrower consent or acknowledgment. The status of the loan, the late fees, monthly income, etc. Understands to provide aggregative amounts and for the Division to look at the specifics during an examination. Concerned what payment schedule means, assumes the monthly payment amount. Subsection 1(j) status of the loans and subsection 1 (k) monthly income. Those items are not regularly captured. They may or may not get it that information, its more on the loan originator and may not transfer to the servicer. Strongly have concerns about reporting frequency and payment history shared with the state without borrower consent. Section 15 subsection 2, the requirement to provide notices and disclosures to coborrowers about risks of the loan. They can provide account history in aggregate, but servicers do not provide those disclosures, lenders do. Its outside of the purview for student loan servicers and the state can request from the lenders.

Mary Young, FID. I think disclosures are required per the Bill.

Scott Buchanan, Student Loan Servicing Alliance. Aware that the Division had some issues associated with what is statutory required and regulatory required, that is why they are raising the concerns. They realize some things are statutory required but would love to work with the Division whether we can accommodate the statute but also recognize some of those realities he just expressed.

Mary Young, FID. We appreciate your comments. As you know, it's a new chapter for us and as we work through this, we appreciate any feedback and anything you want to provide to us in writing would be helpful.

- Winston Berkman-Breen, Student Borrower Protection Center. Doesn't agree with what Scott said about privacy issues but does agree with the overall comment Scott was making, that the account level may not be necessary since the Commissioner can ask for anything during an examination and aggregate might be better. Amend section 15.1 to clarify to the extent any of these data points or records are available, because some information may be with the servicer or with the lender. Again, doesn't see any privacy issue as drafted. Wants to clarify the second to last comment, the reporting of federal and private student loans, to understand that the licensing component of AB332 covers both federal and private student servicers. Since its both, it would be helpful if they report their private and federal student loan portfolio.

Mary Young, FID. To clarify the reasons why we are asking so much in this reporting, we do have to review these documents but is mainly based upon section 40 of AB332, which is putting the requirement on our division to analyze the market of student loan servicing, gather data, analyze all documentation, and put reports together. It puts a lot on us, look at the risk and what is out there with each lender. That is why we put so much in the reporting requirement because we have to determine how we will report to the Legislators. That gives you the background, we were not asking for documentation to just ask for documentation. Again, as we build this regulation, this is a new chapter for us, we appreciate any feedback. If you can provide feedback for us to comply with section 40 without making it too burdensome for everybody, we appreciate it. The sooner you can get that to us, the better.

Sections 16, 17, 18, and 19. There were no comments on these sections.

Sections 20, 21, 22, and 23. There were no comments on these sections.

Sections 24, 25, 26, and 27. There were no comments on these sections.

Sections 28, 29, 30, 31, 32, 33 and 34. There were no comments on these sections.

Agenda Item 4. Public Comments:

- Scott Buchanan, Student Loan Servicing Alliance. Section 17. Generally, the consent is obtained electronically. It would be useful to clarify that we don't mean a specific form, as long its audible and proof that consent was given.

Mary Young, FID. Thank you for your comment.

- Winston Berkman-Breen, Student Borrower Protection Center. Would like to applaud the team for putting this together so quickly after the bill became law and in light of all the changes on the federal level, its timely for Nevada and borrowers. As indicated, the Division is receptive to discuss changes and to reach out to people. There are a lot of changes coming down so we may need to adjust the regulations and hopes to work with the Division in the coming years.

Mary Young, FID. Thank you for your comment.

- Amanda Vaskov, a private citizen now but worked on this bill during the session as a student. Loved her 4 four-year college experience but it came with financial sacrifice for her and her family, a very common story for other students. Really appreciates the Division's dedication and attention. From her perceptive, the regulations really align well with the Bill. Really happy the state recognized the growing nature of student loan debt, and the Legislators and Governor has recognized now is the time to look at it. Thank you.

Mary Young, FID. Thank you for putting this bill together.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Assembly Bill 332 was closed and adjourned on November 29, 2023, at 10:33 a.m.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](#)



November 22, 2023

Financial Institutions Division
State of Nevada
330 W. Sahara Ave., Suite 250
Las Vegas, Nevada 89102
fidmaster@fid.state.nv.us

VIA ELECTRONIC SUBMISSION

Commissioner O'Laughlin:

Thank you for the opportunity to comment on the proposed regulations pertaining to Assembly Bill 332 (A.B. 332) - Student Loan Servicers, from the 2023 Legislative Session.¹ The Student Borrower Protection Center (SBPC) is a national non-profit policy organization founded by former federal financial regulators and committed to ending the student debt crisis. Prior to joining the SBPC, I was a state financial regulator at New York's Department of Financial Services at a time when the agency was implementing its version of A.B. 332, New York Banking Law Article 14-A. I write to support the Financial Institutions Division (FID) and to offer minor comments to its proposed regulations.

We applaud Nevada's enactment of A.B. 332

Nevada, as with the nation, is experiencing a student debt crisis. Approximately 410,400 Nevada residents have student loans,² totalling \$14.7 billion.³ Prior to the federal student loan payment pause that began in March 2020 and ended in September of this year, nearly 18 percent of those Nevada borrowers were delinquent on their student loans.⁴ Federal and state investigations have

¹ Nev. Fin. Inst. Div, *Notice of Workshop to Solicit Comment on Proposed Regulations Pertaining to Assembly Bill 332 - Student Loan Servicers* (Nov. 9, 2023),

<https://fid.nv.gov/uploadedFiles/fidnv.gov/content/Opinion/AB332%20Notice%20of%20Agenda%20Workshop.pdf>.

² Estimate based on the number of adults in the state per the U.S. Census multiplied by the number of "consumers" with student loan debt per the Federal Reserve Bank of Philadelphia. See U.S. Census Bureau, *QuickFacts: Nevada*, <https://www.census.gov/quickfacts/NV>; Fed. Reserv. Bank of Phila., *Consumer Credit Explorer*, <https://www.philadelphiafed.org/surveys-and-data/community-development-data/consumer-credit-explorer>.

³ Fed. Reserv. Bank of N.Y., *State Level Household Debt Statistics 2003-2022* (March 2023), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/area_report_by_year.xlsx.

⁴ See Fed. Reserv. Bank of Phila., *Consumer Credit Explorer*, <https://www.philadelphiafed.org/surveys-and-data/community-development-data/consumer-credit-explorer..>



made clear that borrower delinquencies, defaults, and ballooning balances are in large part due to poor student loan servicing.⁵

To rein in these industry abuses, states across the country have enacted legislation that both licenses student loan servicers and establishes common-sense consumer protections. By enacting A.B. 332, Nevada became the nineteenth state to address this issue.⁶ Especially as federal student loan payments resume this fall and there continues to be changes to the student loan regulatory landscape, these protections and FID oversight will be a critical safety net for Nevada borrowers.

Minor clarifications to FID’s proposed regulations would help ensure compliance

The FID’s proposed regulations faithfully implement A.B. 332 and the legislature’s intent to protect consumers. We appreciate the speed with which the Department has issued these regulations, and the opportunity to comment on them. The FID’s emphasis on record retention and reporting is particularly important, given growing concerns that student loan servicers’ record keeping is compromising the integrity of borrowers’ loan history and data.⁷

We offer the following minor comments to streamline the regulations and ensure they are clear to industry:

- Section 6
 - Amend the introductory text to adopt a savings clause similar to “Except to the extent inconsistent with federal law or regulation, in addition...”;
 - In subparagraph (a), “private education loan borrower or” can be removed, as private education loan borrowers are included in the definition of “student loan borrower” per A.B. 332 sections 10 and 11; and
 - In subparagraph (h), the reference to “private education lender” narrows the applicability of this provision to private education loans, excluding federal student loans and their promissory notes. The FID could revise this subparagraph to refer

⁵ See, e.g., Press Release, Nev. Office of the Att’y Gen., *Attorney General Ford Announces \$1.7 Billion Settlement with Student Loan Servicer Navient* (Jan. 14, 2022), [https://ag.nv.gov/News/PR/2022/Attorney_General_Ford_Announces_\\$1_7_Billion_Settlement_with_Student_Loan_Servicer_Navient/](https://ag.nv.gov/News/PR/2022/Attorney_General_Ford_Announces_$1_7_Billion_Settlement_with_Student_Loan_Servicer_Navient/).

⁶ See Cal. Civ. Code § 1788.100 et seq.; Colo. Rev. Stat. § 5-20-100 et seq.; Conn. Gen. Stat. § 36a-846 et seq.; D.C. Official Code §31-101 et seq.; 110 Ill. Comp. Stat. Ann. 992 et seq.; Ky. Rev. Stat. § 286.12-005 et seq.; La. Rev. Stat. § 6:1401 et seq.; Me. Rev. Stat. Title 9-A, Art. 14; Md. Educ. D. IV, Title 26, Subt. 6; Ma. G.B.L. c. 93L; Minn. Stat. Ch. 58B; 2023 Bill Text NV A.B. 332; N.J. Stat. § 17:16ZZ; N.Y. Banking Law Art. 14-A; Okla. Stat. tit. 24, § 170 et seq.; Or. Laws 2021, ch. 651, secs 1-11; R.I. Gen. Laws § 19-33; Va. Code Ann. Title 6.2, Subt. IV, Ch. 26; Wash. Rev. Code Ann. § 31.04.400 et seq.

⁷ See, e.g., Consumer Fin. Prot. Bureau, *Report of the CFPB Education Loan Ombudsman* 12 (Oct. 2023), https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf.



to lenders, generally, to include federal student loans. Alternatively, FID could add “as applicable” to this subparagraph to make clear that servicers of federal student loans are not required to comply.

- Section 7
 - Clarify that, per the definition of “private education lender” in A.B. 332, paragraph 7(1), holders of private education loans are also required to obtain an NTS 675 license, or, if that is not the case, clarify how unlicensed private education lenders should comply with any reporting or assessment requirements.
- Section 15
 - Subparagraph 5, clarify whether “accounts paid” refers to any account for which a payment was made or to accounts that have been paid off;
 - Subparagraphs 12 and 13, combine these items to require reporting on the number of accounts that have been forgiven, cancelled, or discharged, as these terms are often used interchangeably, and the required reasons for each forgiveness, cancellation, or discharge can be used to determine the applicable basis;
 - Add a reporting requirement for the number of accounts for which a debt collection court action has been initiated;
 - Add a reporting requirement for the number of accounts that are federal student loans versus private education loans; and
 - Add a reporting requirement for the number of accounts with a cosigner.

We appreciate the FID’s work on this matter, and would be happy to answer any questions.

Sincerely,

Winston Berkman-Breen
Legal Director
Student Borrower Protection Center
winston@protectborrowers.org

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Workshop to Solicit Comments on
Proposed Regulations A.B.332- Student Loan Servicers**

Date: Wednesday, May 8, 2024

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The second workshop to consider A.B.332 was called to order Wednesday, May 8th at 10:02 a.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to student loan servicers, as provided by Assembly Bill No. 332, as described by the Notice of Workshop dated and posted on April 19, 2024.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Chief Deputy Attorney General Michael Detmer
Examiner Jennifer Ramsay
Examiner Devan Owens

Agenda Item 2. Comments by General Public:

There was one comment during this general public comment period.

- Scott Buchanan, Student Loan Servicing Alliance. Would like to thank FID for considering previous comments they provided. The updates FID made are positive. Such as, updates to the surety bond requirement, clarifying the record retention policy and changing the reporting to an average instead of aggregate.

Mary Young, FID. Thank you for your comment.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

A summary of the changes to the proposed regulations was read during the workshop.

Regulation Comments per Section:

Sections 6, 7, 9 and 10. There was comments received on sections 6, 7 and 8.

Comments provided during the workshop:

- Scott Buchanan, Student Loan Servicing Alliance. Section 7 subsection c as it relates to monthly income of the borrower. Would like to highlight that “as applicable” is critical in this section because often times the income is not captured by the servicers from origination but servicers may capture this information if a loan modification occurs, or other monthly payment options are looked at. Servicers will retain this information if they receive this information.

Mary Young, FID. Thank you for your comment.

- Winston Berkman-Breen, Student Borrower Protection Center. Comment on section 6, where it adds “private or federal education loan borrower or student loan borrower”, this is somewhat redundant since student loan borrower includes both private and federal loan borrowers.

Mary Young, FID. We added “federal” to sections because of comments received from last workshop.

Winston Berkman-Breen, Student Borrower Protection Center. They offered alternatives to take out student loan or take out private education loan and keep student loan borrower. If we think its redundant or not, we can remove it or keep it.

Mary Young, FID. Understood. Thank you.

- Winston Berkman-Breen, Student Borrower Protection Center. Section 8. They initially requested clarification that both private education lenders and those whose extend loans needed a license. FID revised the section but kept “extending private education loans”. He thinks that will cause confusion.

Mary Young, FID. The definition in AB332 covers lenders who extends loans as well as holders of the loans.

Winston Berkman-Breen, Student Borrower Protection Center. He thinks by us adding “extending” immediately afterward can create confusion.

Mary Young, FID. We will review internally and with LCB. Thank you for your comment.

Winston Berkman-Breen, Student Borrower Protection Center. Thank you and thank you again for all your hard work on this.

Sections 16, 17, 18, and 22. There were comments received during the workshop on sections 16 and 17 and one written comment received after the workshop.

Comments provided during the workshop:

- Scott Buchanan, Student Loan Servicing Alliance. Section 16. Appreciates all things we have taken in consideration. Section 16 subsection a. The APR is not regularly calculated, the servicer may not get this APR that was originally disclosed, he thinks the intent here is capturing the interest rate. Encourages us to reconsider. Section 16 subsection u and v. The terms “forgiveness” “cancelled”, and “discharged” are not defined and generally they can be interchangeable. Requests to group subsection u and v together. They assume FID means the amount of the loans that were forgiven or is it the balance after. Also, subsection w, is it the court action the servicer takes against a borrower or what action was taken against a servicer, which they already put in NMLS.

Mary Young, FID. We will clarify what we meant by amounts for the forgiveness. The court action is the action taken by a servicer against a borrower, not the action taken against a licensee and posted in NMLS.

- Scott Buchanan, Student Loan Servicing Alliance. Section 17. The trust account normally applies to collection agencies that collect for clients and recoveries grouped together and remitted back net to the client. For collection agencies to make sure paying lenders. Not sure what consumer value there is. Servicing is when payments are applied directly to an account and not aggregated and rolled to lender. No benefit and causes an administrative burden since servicers are working for several lenders and will have to maintain separate trust accounts.

Mary Young, FID. When does the servicer actually pay the lender?

Scott Buchanan, Student Loan Servicing Alliance. We don't pay the lender as you would think as a collection agency. The payment is applied to an account and all the cash flows in real time generally to the lender or holder.

Mary Young, FID. When you post to the account, is the bank transfer automatically completed to the holder of the account?

Scott Buchanan, Student Loan Servicing Alliance. Sometimes it is delayed several days depending on account posting. The transfer can be to a holder, lender, trust, whoever. The cash flow is different than collections. It's not like large amounts like a collection agency, which are held for an extended period.

Mary Young, FID. We will have to discuss internally because as you know we regulate collection agencies and some service student loan accounts, they have a similar model to what you explained and they utilize a trust, the model is very similar to what we are seeing now.

Scott Buchanan, Student Loan Servicing Alliance. I understand but urge FID to think what the benefit to a consumer is.

Mary Young, FID. I have a question about another comment you made regarding the APR in section 16. Do the servicers receive the original loan document or contract?

Scott Buchanan, Student Loan Servicing Alliance. We have access to it but doesn't necessarily mean we capture the APR in the servicing system as a data point. The APR is part of the file put not a data point.

Mary Young, FID. We can pull during it during an examination, correct?

Scott Buchanan, Student Loan Servicing Alliance. That is right. FID will have access to it. It's difficult to provide the APR in real time.

Written comment received after the workshop:

- Amanda Vaskov, a private citizen. The annual reporting of the APR will provide an opportunity to observe rate change. Pulling rate data individually via examination will not provide a holistic picture of the APR associated with Nevadans' student loans. Converting APR into an accessible data point should be encouraged. APR is already a consideration for servicers when refinancing, arranging an income-driven repayment plan, and placing a borrower in default. With the language, borrowers will be empowered to consider APR in the pursuit of student financial literacy and complete repayment. Section 16 is critical for informed borrowing.

After covering the sections with changes, FID requested comments on any of the sections. There were no comments received during this time.

Agenda Item 4. Public Comments:

- Scott Buchanan, Student Loan Servicing Alliance. Wants to thank FID for all the consideration of the previous comments. Always happy to talk about these issues. Appreciate all the hard work.

Mary Young, FID. Thank you for your comment.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Assembly Bill 332 was closed and adjourned on May 8, 2024, at 10:28 a.m.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](#)

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Adoption Hearing to Solicit Comments on
Proposed Regulations A.B.332- NRS/NAC 670B and 675**

Date: Thursday, October 10, 2024

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Tahoe Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Microsoft Teams meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The hearing to consider A.B.332 was called to order Thursday, October 10, 2024, at 10:01 a.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulations pertaining to Chapter 670B and 675 of the Nevada Administrative Code ("NAC"), as provided by Assembly Bill No. 332, as described by the Notice of Intent to Act Upon a Regulation and Hearing Agenda dated and posted on September 6, 2024.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Supervisory Examiner Brenda Ramirez
Examiner Jennifer Ramsay
Examiner Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

Each section of the proposed regulation being adopted today was read into the record.

Sections 1 through 8. There were no comments received on Sections 1 through 8.

Sections 9 through 17. There were no comments received on Sections 9 through 17.

Sections 18 through 25. There were no comments received on Sections 18 through 25.

Sections 26 through 38. There were no comments received on Sections 26 through 38.

Agenda Item 4. Adoption of Proposed Regulation:

The Financial Institutions Division hereby adopts regulation R120-23, which pertains to Chapter 670B and Chapter 675D of the Nevada Administrative Code and Assembly Bill 332, as described in the Legislative Counsel Bureau draft dated August 30, 2024.

Agenda Item 5. Public Comments:

There were no comments during this general public comment period.

Agenda Item 6. Close Workshop (Adjournment):

The adoption hearing for R120-23 pertaining to Assembly Bill 332 and Chapter 670B and Chapter 675 of the Nevada Administrative Code was closed and adjourned on October 10, 2024, at 10:32 a.m.

To review and/or listen to comments in their entirety, please refer the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.fid.nv.gov)

**DRAFT PROPOSED REGULATION OF THE COMMISSIONER OF
THE FINANCIAL INSTITUTIONS DIVISION**

(Student Loan Servicers/Lenders)

LCB File No. ____ - ____

August 30, 2023

Purpose: To adopt regulations under the Nevada Administrative Code to implement Assembly Bill No. 332 (2023), which creates a new chapter of the Nevada Revised Statutes (NRS) related to student loan servicers and establishes additional requirements for private education lenders under existing law NRS 675.

Authority: Assembly Bill 332, Chapter 466, Statutes of Nevada 2023.

Explanation: Material in *blue bold italics* is new language.

Section 1. *Title 55/Chapter xxx of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 34, inclusive, of this regulation.*

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in this chapter have the meanings ascribed to them in those sections and sections 3 through 13 of Assembly Bill No. 332 and section 3 of this chapter.*

Sec. 3. *“Place of business” means the physical location where the officers and senior management direct the student loan servicing business, oversee the day-to-day operations of the student loan servicing business, and all books and records are maintained at such location.*

Sec. 4. *A person shall not engage in the business of student loan servicing in this State unless:*

- 1. The person holds a license required by Assembly Bill 332, and any license or permit issued by a local governmental entity; and*
- 2. The place of business cannot be a residence; it must be a commercially zoned place of business located in the United States.*

Sec. 5. *A person who wishes to apply for a license for a place of business outside this State agrees to:*

(a) Make available at a location within this State the books, accounts, papers, records and files of the place of business located outside this State to the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner incurred during any investigation or examination made at an office or principal place of business located outside this State.

(c) At the discretion of the Commissioner, books, accounts, papers, records and files may be electronically submitted to the Office of the Commissioner in lieu of subsections (a) or (b).

Sec. 6. *In addition to the records and files required to be retained by a licensee in Assembly Bill 332, the following, without limitation, shall be retained for not less than 6 years:*

(a) Any correspondence or communication involving a private education loan borrower or student loan borrower, including, emails, telephone calls, or mail;

(b) The acknowledgment and information required in section 27 of Assembly Bill 332;

(c) Payment history, including dates of all payments received, all interest and fees charged and the allocation of payments across principal, interest and fees;

(d) Request from borrowers with more than one loan for alternative payment allocation;

(e) Account history, including without limitation, accounts transferred to or from another servicer and dates of such transfers;

(f) Call notes or communication logs;

(g) Documentation used in determining a student loan borrower's eligibility for an income-driven repayment program, including evaluating dates and the reasoning for decision to place a borrower in an income-driven repayment program, forbearance or default;

(h) The loan contract between the borrower and private education lender and supporting documentation evidencing the borrower's obligations to the lender; and

(i) The servicing contract between the lender and licensee.

Sec. 7. *For the purpose of sections 7(1) and 37 of Assembly 332, a private education lender extending private education loans or student education loans in this state or to private education loan borrowers or student loan borrowers in this state, must obtain an NRS 675 license from the Office of the Commissioner prior to engaging in lending activity.*

Sec. 8. *For the purpose of sections 16 and 19, an applicant for a license must file with the Commissioner, concurrently with the application, a surety bond in the sum of \$250,000, which is payable to the State of Nevada. The bond must be made and executed by the principal and a surety company authorized to write bonds in the State of Nevada. The bond must be conditioned:*

(a) That the principal, who must be the applicant, must, upon demand in writing, pay any lender from whom any loan for collection is received, the proceeds of the collection, in accordance with the terms of the agreement made between the servicer and the lender; and

(b) That the principal must comply with all requirements of this or any other statute with respect to the duties, obligations and liabilities of a licensee.

Sec. 9. *For the purpose of section 20, a student loan servicer seeking an exemption from the requirement to submit an application for licensure pursuant to section 20 of Assembly Bill 332, shall document eligibility for the exemption by submitting an executed copy of the contract awarded by the United States Security of Education under 20 U.S.C. § 1087f.*

Sec. 10. *For the purpose of section 24, any change made to the licensee's business name, fictitious firm name, licensed location, change in any control person as defined in section 3 of*

Assembly Bill 332, or any change in the information provided in the initial application, must be approved by the Commissioner.

Sec. 11. *1. The Commissioner of the Financial Institutions Division will charge and collect a fee of \$75 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to Assembly Bill 332.*

2. The Commissioner will invoice each licensee upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the invoice is received. Any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a licensee to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

Sec. 12. *1. Each licensee shall pay to the Financial Institutions Division an annual assessment of not greater than \$300 to cover the costs related to the employment of a certified public accountant.*

2. The Division shall invoice each licensee for the assessment. The assessment must be paid within 30 days after the date on which the invoice is received. Any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a licensee to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

Sec. 13. 1. *Each licensee shall pay to the Division of Financial Institutions the assessment to cover the costs of legal services provided by the Attorney General to the Commissioner and the Division which is imposed pursuant to NRS 658.098.*

2. The Division shall invoice each licensee for the assessment described in subsection 1. The licensee shall pay the assessment within 30 days after the date on which the licensee receives the invoice. A charge of 10 percent of the assessment described in subsection 1 will be imposed on any licensee if payment for an assessment described in subsection 1 is received by the Division after the date on which the assessment is due.

3. Failure to pay the assessment described in subsection 1 constitutes grounds for the revocation of the license of the licensee.

Sec.14. 1. *The Commissioner may revoke or suspend the license of a student loan servicer if the licensee violates any provision of this chapter or Assembly Bill 332, including, without limitation, a provision that imposes a fee or assessment.*

2. The Commissioner may revoke the license if the licensee does not allow the Division to conduct an examination, investigation or audit of any accounts, books and records.

3. A revocation or suspension of a license must be made in accordance with the procedures set forth in Assembly Bill 332 and NRS 233B.

Sec. 15. *For the purpose of section 40 of Assembly Bill 332, in addition to the annual report required to be filed on or before April 15th of each year, a licensee shall submit the following with the annual report, in a form prescribed by the Commissioner, for the prior calendar year:*

1. Listing of each account with the following information for each account:

- a. Annual percentage rate;*
- b. Finance charge;*

- c. Amount financed;*
- d. Total of payments;*
- e. Payment schedule;*
- f. Payments made on the loan, full or partial payments;*
- g. Outstanding balance of the loan;*
- h. Late fees;*
- i. Miscellaneous fees, and identify the fee;*
- j. Status of the loan;*
- k. The monthly income of the borrower at the time the loan was originated, and at the time of any loan modification, repayment plan or forbearance, as applicable; and*
- l. Credit reporting information:*
 - i. Reporting frequency;*
 - ii. Name of the nationally recognized consumer credit bureau reported to;*
and
 - iii. Reporting of both favorable and unfavorable payment history, and the dates reporting per each borrower.*
- 2. Provide notices and disclosures provided to a borrower or cosigner regarding the risks of a student education loan.*
- 3. The number of accounts serviced the start of the calendar year, with the amount of the loans.*
- 4. The number of accounts serviced at the end of the calendar year, with amount of the loans.*

5. *The number of accounts paid, with the amount of the loans.*
6. *The number of accounts placed in an income-driven repayment plan, with amount of the loans.*
7. *The number of accounts in a loan modification, with amount of the loans.*
8. *The number of accounts placed in a flexible repayment plan, with amount of the loans.*
9. *The number of accounts placed in forbearance, with amount of the loans.*
10. *The number of accounts placed in default, with amount of the loans.*
11. *The number of defaulted accounts assigned to a collection agency and name of collection agency.*
12. *The number of accounts placed in forgiveness, with amount of the loans and reason for each.*
13. *The number of accounts cancelled or discharged, with amount of the loans and reason for each.*

↪ *The Commissioner may request additional information pursuant to section 40 of Assembly Bill 332 or this chapter, at any time necessary.*

Sec. 16. *1. Every licensee shall at all times maintain a separate account in a bank or credit union that is federally insured, or privately insured by a private insurer approved by the Commissioner, in which must be deposited all money collected. The account title must distinguish it from the licensee's general operating account and to designate it as a trust account or for the benefit of account, such as "lender's trust account" or "for the benefit of [lender's name]." The trust account must at all times contain sufficient money to pay all money due or owing to all lenders, and no disbursement may be made from the account except to the lenders, or to pay costs advanced for those lenders, except that a licensee may periodically withdraw from*

the account such money as may accrue to the licensee from collections deposited or from adjustments resulting from costs advanced and payments made directly to lenders.

2. Every licensee maintaining a separate trust account shall keep a record of all money deposited in the account, which must indicate clearly the date and from whom the money was received, the date deposited, the dates of the remittance and other pertinent information concerning the transaction and must show clearly for whose account the money is deposited and to whom the money belongs. The money must be remitted to the lenders entitled thereto within 30 days following the end of the month in which payment is received, or pursuant to the servicing agreement. The records and money are subject to inspection by the Commissioner. The records must be maintained at the authorized place of business.

Sec. 17. *If a borrower did not provide authorization for electronic communications during the loan origination process, a licensee must obtain authorization from the borrower on a form that clearly states the borrower agreed to receive all communications electronically. Such form must be retained pursuant to the record retention in this chapter.*

Sec. 18. *A licensee may charge and collect fees from a borrower if authorized by the loan agreement.*

Sec. 19. 1. *In addition to the policies and procedures required to be developed and implemented pursuant to Assembly Bill 332, a licensee shall develop and implement policies and procedure to:*

- a. Identify borrowers at risk of default, notify borrowers of the possibility of default and make reasonable efforts to assist borrowers in avoiding default.*
- b. Ensure licensee has the most up-to-date personal information of borrowers.*

Sec. 20. *Licenses shall apply borrower payments to the outstanding loan balance upon the date of receipt of payment by the licensee in accordance with the loan agreement and in a manner that is most beneficial to the borrower.*

Sec. 21. *Licenses shall provide timely and accurate information to credit bureaus and shall reasonably investigate any complaint received from a borrower concerning inaccurate credit reporting in a timely manner. Licenses shall promptly correct any negative information previously reported to a credit bureau found to be inaccurate as a result of subsequent investigation by the licensee.*

Sec. 22. *Licenses who service more than one loan for a borrower shall notify borrowers at least annually of the manner in which partial payments are allocated across multiple loans pursuant to section 27 of Assembly Bill 332 and provide an opportunity for borrowers to direct the allocation of payments in a different manner. A licensee shall adhere to any alternative payment allocation instructions provided by the borrower.*

Sec. 23. 1. *Licenses shall provide monthly statements to borrowers that clearly identify:*

- (a) The servicer and current loan holder;*
- (b) Date of origination;*
- (c) Detail the outstanding balance of the loan;*
- (d) Monthly payment;*
- (e) Current loan term;*
- (f) Interest rate;*
- (g) Any interest and fees charged since last statement; and*
- (h) Payments received since the last statement.*

2. Licensee shall also provide timely and accurate annual statements concerning loan interest paid for tax reporting purposes.

3. Upon request by the borrower, the licensee shall provide the borrower a complete and accurate payoff statement. The statement shall clearly indicate the date on which it was prepared, the date pay-off amount is good until and any circumstances which may change the amount required to pay-off the loan. The payoff statement must be delivered to the borrower within 5 business days of the request.

4. Upon consent of the borrower, such statements may be provided electronically.

5. No fee may be charged for any statement.

Sec. 24. *The unique identifier license number shall be posted on the home page of the licensee's website or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents.*

Sec. 25. *A notice of right for a borrower to contact the Office of the Commissioner of the Financial Institutions Division regarding concerns or complaints shall be posted on the home page of the licensee's website or on a page that is clearly conspicuously connect to the home page by a link that clearly reveals its contents. The notice shall be in the following form:*

***NOTICE OF RIGHT TO FILE A WRITTEN COMPLAINT TO THE
COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION***

You may file a written complaint with the Commissioner of the Financial Institutions Division by submitting a signed complaint form to the Office of the Commissioner. The required complaint form can be found on the homepage of the Financial Institution's website: www.fid.nv.gov, or you may request a

complaint form via telephone by calling the toll-free telephone number: 1 (866) 858-8951.

Sec. 26. *For the purposes of Section 21 subsection 2 of Assembly Bill 332, the late fee may be waived if a licensee submits a renewal application through the Nationwide Multistate Licensing System after November 1 and on or before December 31 of each year.*

Sec. 27. *The Commissioner may request any information or documentation deemed necessary to perform an examination or investigation of an applicant or licensee.*

NAC CHAPTER 675

Sec. 28. *Chapter 675 of NAC is hereby amended by adding thereto the provisions set forth as sections 28 to 33 of this regulation.*

Sec. 29. *A private education lender operating in this state must comply with the provisions of Assembly Bill 332, this chapter, chapter NRS 675 and NAC 675, including, without limitation, sections 31 through 37, 40, and 46 through 48 of Assembly Bill 332, and section 15 this chapter.*

Sec. 30. *Private education lender has the meaning ascribed to it in section 7 of Assembly Bill 332.*

Sec. 31. *Private education loan has the meaning ascribed to it in section 8 of Assembly Bill 332.*

Sec. 32. *A private education lender extending private education loans or student education loans in this state or to private education loan borrowers or student loan borrowers, must obtain a NRS 675 license from the Office of the Commissioner prior to engaging in lending activity.*

Sec. 33. *A notice of right for a borrower to contact the Office of the Commissioner of the Financial Institutions Division regarding concerns or complaints shall be posted on the home page of the licensee's website or on a page that is clearly conspicuously connect to the home page by a link that clearly reveals its contents. The notice shall be in the following form:*

***NOTICE OF RIGHT TO FILE A WRITTEN COMPLAINT TO THE
COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION***

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Sec. 34. *The Commissioner may request any information or documentation deemed necessary to perform an examination or investigation of an applicant or licensee.*