



**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
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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
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