

STATE OF NEVADA



JOE LOMBARDO
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

TERRY REYNOLDS
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

DATE: November 9, 2023
TO: Whom It May Concern
FROM: Mary Young
Deputy Commissioner

The State of Nevada, Department of Business and Industry, Financial Institutions Division (Division) is providing the enclosed Notice of Workshop to Solicit Comment on Proposed Regulations pertaining Assembly Bill 332 (A.B.332) – Student Loan Servicers from the 2023 Legislative Session.

The regulation included in this memorandum is being proposed for permanent adoption. In order to review the proposed regulation and solicit comments from interested persons, a workshop will be held via Webex conference at 10:00 a.m. PST on Wednesday, November 29, 2023, and for those wish to participate in-person, at the Nevada State Business Center.

Enclosures:

Notice of Workshop and Workshop Agenda
Proposed Regulation
Small Business Impact Statement
Enrolled Version A.B.332

NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS PERTAINING TO
ASSEMBLY BILL 332 (A.B.332) – STUDENT LOAN SERVICERS AND
WORKSHOP AGENDA

The State of Nevada, Financial Institutions Division (“Division”), 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120 is proposing the adoption of regulations for student loan servicers. The proposed regulations are required as a result of the passage of Assembly Bill 332 (A.B.332) during the 82nd Session of the Nevada Legislature. This workshop will be conducted in accordance with NRS 233B.061 and the purpose is to solicit comments from interested persons on the proposed regulations to be held through videoconference, teleconference, and in-person:

Date: Wednesday, November 29, 2023

Time: 10:00 a.m. PST

To join by Webex, join the Webex meeting by clicking on the link below:

<https://businessnv2.webex.com/businessnv2/j.php?MTID=m518dafe91bceb8dae5332002b7ba4381>

Meeting number (access code): 2491 137 7277

Meeting password: AB332

To join by telephone, call the toll-free number:

1-844-621-3956 United States Toll-Free

For those wishing to participate in-person, the following physical location is being made available:

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

Below is an agenda of all items scheduled to be considered. Persons who may be subject to the provisions of the new law regarding student loan servicers should attend. At the discretion of the Commissioner, public comment may be limited to three minutes per person. Members of the public are encouraged to submit written comments for the record no later than **November 22, 2023**. Written comment can be submitted to the Division by email: fidmaster@fid.state.nv.us or by mail: 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102.

A copy of all materials relating to the proposal may be obtained by visiting the Division's website at: <http://fid.nv.gov> or by contacting the Division, 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120. Members of the public who would like additional information about a proposed regulation may contact Mary Young, Deputy Commissioner, at (702) 486-4120, or via e-mail to fidmaster@fid.state.nv.us

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing no later than five (5) working days before the workshop via email to fidmaster@fid.state.nv.us

WORKSHOP AGENDA:

1. Open Workshop
2. Public Comment
3. Presentation of Proposed Regulation regarding Student Loan Servicers - A.B. 332 (2023 Legislative Session). -**FOR DISCUSSION AND POSSIBLE ACTION**
4. Public Comment
5. Close Workshop

PROPOSED REGULATIONS:

See attached.

NOTICE OF THE WORKSHOP HAS BEEN PROVIDED AS FOLLOWS:

By email to all persons on the Division's email list for noticing of administrative regulations.
By email to all licensees under NRS 649, 675, and known contacts for student loan servicers.
Posted at the Division's principal office/in-person physical location- 3300 W. Sahara, Ave., Suite. 250, Las Vegas, Nevada 89102
Posted online to the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>
Posted online to the State of Nevada Public Notice website: <https://notice.nv.gov>
Posted online to the Division's website: <https://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. *Licensees 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. *Licensees 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. Licensees 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. *Licensees 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. Licensees 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***

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

**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 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.

(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>
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<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> <p>Section 25, it's important for</p>
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				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%

Assembly Bill No. 332—Assemblymen Peters, Watts, Nguyen, Torres; Anderson, Carter, Gorelow, Koenig, La Rue Hatch, Mosca, Newby and Taylor Joint Sponsor: Senator Nguyen

CHAPTER.....

AN ACT relating to student education loans; providing for the licensing and regulation of student loan servicers by the Commissioner of Financial Institutions; requiring student loan servicers to pay certain assessments and fees; authorizing the Commissioner to participate in the Nationwide Multistate Licensing System and Registry with respect to the issuance and renewal of a license to engage in student loan servicing; authorizing the Commissioner to take certain actions relating to participation in the Registry; authorizing and requiring the Student Loan Ombudsman to perform certain acts; providing for the regulation of private education loans and private education lenders by the Commissioner; requiring the Commissioner to adopt certain regulations; authorizing the Commissioner to engage in certain activities relating to the monitoring of the market for the provision of student loan servicing and student education loans; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Financial Institutions to supervise and control various financial institutions, lenders and fiduciaries, including, without limitation, banks, credit unions, payday lenders and trust companies. (Chapter 604A of NRS, title 55 of NRS) **Sections 2-51** of this bill add a new chapter to the Nevada Revised Statutes to provide for the licensing and regulation of student loan servicers by the Commissioner, as well as the regulation of private education loans and private education lenders. **Sections 3-13** of this bill define terms used in the new chapter. **Section 14** of this bill provides for money received pursuant to the new chapter to be accounted for separately and used for the regulation of student loan servicers. **Sections 15-21, 25, 44 and 45** of this bill set forth requirements relating to the licensing of student loan servicers. In particular, **section 15** prohibits a person from acting as a student loan servicer without obtaining a license from the Commissioner to do so, and also sets forth the persons exempted from this licensure requirement. **Section 16** of this bill sets forth various requirements for applying for a license, including, without limitation, the payment of a license fee and an investigation fee and the submission of a surety bond. **Section 45** provides that all fees paid are nonrefundable. **Section 20** of this bill requires the Commissioner to issue a license to persons who engage in student loan servicing in this State only pursuant to certain contracts with the federal government without requiring those persons to comply with the standard requirements for the issuance of a license. **Section 20:** (1) requires persons who are issued such a license to comply with other relevant provisions of law; and (2) provides for the expiration of such a license not later than 37 days after the expiration, revocation or termination of the federal contract that provided the basis for the issuance of the license. **Sections 20.1-20.8** of this bill authorize the Commissioner: (1) in furtherance of his or her duties with respect to the issuance and renewal of licenses as a student loan servicer, to participate in the Nationwide Multistate Licensing System and Registry; and (2) to take certain actions regarding such participation. **Section 20.4:** (1) requires the Commissioner to report to the Registry certain information concerning violations of applicable laws by applicants for licensure and licensees; and (2) authorizes the Commissioner to enter into certain agreements with certain entities. **Section 20.2** authorizes the Commissioner to: (1) require an applicant for licensure or a licensee seeking to renew a license to submit a complete set of fingerprints when the Commissioner determines necessary; and (2) use the Registry to process and submit the fingerprints to the Federal Bureau of Investigation and certain other federal and state agencies for the purposes of conducting a criminal background check. **Section 20.6** of this bill requires an applicant for the issuance of a license and certain other persons to submit a complete set of fingerprints and certain other information to the Registry. **Section 20.8** authorizes the Commissioner to issue a license as a student loan servicer through the Registry. **Section 21** provides for the annual expiration and renewal of a license as a student loan servicer. **Sections 22-24 and 26-30** of this bill set forth requirements governing the business practices and other actions of student loan servicers. Specifically, **section 22** sets forth requirements applicable to a licensee ceasing to engage in the business of student loan servicing in this State. **Section 23** of this bill sets forth requirements applicable to a person who provides a check or other method of payment to the Commissioner which is returned or otherwise dishonored. **Section 24** requires licensees and applicants for licenses to notify the Commissioner of any changes in certain information provided to the Commissioner. **Sections 26 and 28** of this bill set forth requirements concerning business names, business locations and recordkeeping relating to student loan servicers and student education loans. **Section 29** of this bill prohibits a student loan servicer from engaging in certain specified conduct. **Section 30** of this bill authorizes the Student Loan Ombudsman in the Office of the State Treasurer or any member of the public to file a complaint with the Commissioner concerning the actions of a student loan servicer. **Sections 31-37** of this bill establish provisions for a particular type of student education loan, the private education loan, and for private education loan borrowers and private education lenders. In particular, **sections 31 and 32** of this bill establish certain protections for cosigners of private education loans. **Section 32** also prohibits a private education lender from accelerating repayment of a private education loan except in cases of a default in payment. **Section 33** of this bill establishes the rights and duties of private education lenders in cases of the total and permanent disability of a private education loan borrower or his or her cosigner. **Sections 34-36** of this bill set forth requirements and prohibitions governing the business practices and other actions of private education lenders. **Section 37** provides that a private education lender is not exempt from any applicable licensing requirements imposed by any other specific statute.

Sections 38, 39 and 41-43 of this bill: (1) authorize the Commissioner to conduct investigations and examinations relating to student loan servicers and student education loans; (2) require the Commissioner to conduct such investigations and examinations at least annually; (3) require licensees to pay for such investigations and examinations; (4) authorize the Commissioner to retain certain professionals and specialists, enter into certain agreements and use certain resources for the purposes of investigations and examinations; (5) describe the scope of the authority of the Commissioner with regard to investigations and examinations; and (6) prohibit a student loan servicer or other person under examination or investigation from knowingly withholding or otherwise preventing access to information relating to the examination or investigation.

Existing law requires financial institutions to pay assessments established by the Commissioner to cover: (1) the costs of certain independent audits and examinations; (2) legal services provided by the Attorney General to the Commissioner and the Division of Financial Institutions; and (3) supervision and examinations by the Commissioner or Division. (NRS 658.055, 658.098, 658.101)

Sections 39 and 53 of this bill require a licensed student loan servicer to pay those assessments. **Section 40** of this bill authorizes the Commission to monitor the market for the provision of student loan servicing and student education loans for risks to consumers and to take certain actions relating to such monitoring.

Section 44 sets forth grounds upon which the Commissioner may deny an application for a license or suspend, revoke or refuse to renew a license. **Section 46** of this bill requires a student loan servicer and a private education lender to comply with certain federal laws and regulations, and deems a violation of those federal laws or regulations to be a violation of Nevada law. **Sections 47, 48 and 50** of this bill establish the rights, remedies and penalties available for violations of the new chapter. **Sections 49 and 56** of this bill make confidential any books, records or other information obtained by the Division in connection with an application, complaint, audit, investigation or examination. **Section 51** requires the Commissioner to adopt any regulations necessary to carry out the provisions of the new chapter. **Section 52** of this bill makes a conforming change to indicate the proper placement of the new chapter in the Nevada Revised Statutes.

Existing law establishes the duties of the Student Loan Ombudsman designated by the State Treasurer. Those duties include receiving, reviewing and attempting to resolve complaints from student loan borrowers. (NRS 226.570) **Section 54** of this bill requires the Student Loan Ombudsman to make those complaints available to the Attorney General. **Section 55** of this bill makes a conforming change to indicate the proper placement of **section 54** in the Nevada Revised Statutes.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 55 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 51, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 3. 1. “Control person” means:

(a) An executive officer, director, general partner, trustee, member, qualified employee or shareholder of a student loan servicer, licensee or applicant for a license; or

(b) A person who is authorized to participate in direct or indirect control of the management or policies of a student loan servicer, licensee or applicant for a license.

2. As used in this section, “executive officer” means an officer, manager, partner or managing member of a student loan servicer, licensee or applicant for a license. The term includes, without limitation, a chief executive officer, president, vice president, chief financial officer, chief operating officer, chief legal officer, controller or compliance officer or a natural person who holds any similar position.

Sec. 4. “Cosigner” means:

1. Any person who is liable for the obligation of another without compensation, regardless of how the person is designated in the contract or instrument with respect to that obligation, including, without limitation, an obligation under a private education loan extended to consolidate a borrower’s pre-existing private education loans. The term includes any person whose signature is requested as a condition to grant credit or to forbear on collection.

2. As used in this section, the term does not include a spouse of a person described in subsection 1 whose signature is needed to perfect the security interest in a loan.

Sec. 5. “License” means a license issued by the Commissioner pursuant to this chapter.

Sec. 6. “Licensee” means a student loan servicer licensed by the Commissioner pursuant to this chapter.

Sec. 6.5. “Nationwide Multistate Licensing System and Registry” or “Registry” has the meaning ascribed to it in NRS 604A.083.

Sec. 7. 1. “Private education lender” means any person engaged in the business of securing, making or extending private education loans, or any holder of a private education loan.

2. To the extent that state law is not preempted by federal law, the term does not include:

(a) A bank, savings bank, savings and loan association or credit union;

(b) A wholly owned subsidiary of a bank or credit union;

(c) An operating subsidiary if each owner of the operating subsidiary is wholly owned by the same bank or credit union;

(d) The Nevada System of Higher Education; or

(e) The Western Interstate Commission for Higher Education.

Sec. 8. 1. “Private education loan” means an extension of credit that is:

(a) Extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the loan is provided by the educational institution that the student attends; and

(b) Not made, insured or guaranteed under Title IV of the Higher Education Act of 1965, 20 U.S.C. §§ 1070 et seq.

2. The term does not include an:

(a) Open-end credit or any loan that is secured by real property or a dwelling; or

(b) Extension of credit in which the covered educational institution is the creditor if:

(1) The term of the extension of credit is 90 days or less; or

(2) An interest rate is not applied to the credit balance and the term of the extension of credit is 1 year or less, even if the credit is payable in more than four installments.

Sec. 9. “Private education loan borrower” means any resident of this State who has received or agreed to pay a private education loan for the borrower’s own educational expenses.

Sec. 10. “Student education loan” means any loan primarily for personal use to finance education or other school-related expenses. The term includes a private education loan.

Sec. 11. “Student loan borrower” means a:

1. Resident of this State who receives or agrees to pay a student education loan; or

2. Person who shares responsibility with such a resident for repaying the student education loan.

Sec. 12. “Student loan servicer” means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower. The term includes a licensee and a person who engages in student loan servicing without a license pursuant to subsection 2 of section 15 of this act. The term does not include the Nevada System of Higher Education or the Western Interstate Commission for Higher Education.

Sec. 13. “Student loan servicing” or “servicing” means:

1. Receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan or any notification that a student loan borrower made such a scheduled periodic

payment and applying the payments to the account of a student loan borrower, as may be required pursuant to the terms of a student education loan or a contract governing the servicing of a student education loan;

2. During a period in which no payment is required on a student education loan, maintaining account records for a student education loan and communicating with the student loan borrower on behalf of the owner of the promissory note for the student education loan; or

3. Interacting with a student loan borrower concerning a student education loan, including activities to prevent default on the student education loan, to facilitate the activities described in subsection 1 or 2.

Sec. 14. 1. The Commissioner shall:

(a) Administer and account for separately the money received pursuant to this chapter.

(b) Use the money received pursuant to this chapter for the purposes set forth in this chapter.

2. Any money that remains in the account created pursuant to subsection 1 at the end of the fiscal year does not revert to the State General Fund, and the balance of the account must be carried forward to the next fiscal year.

3. Any interest or income earned on the money in the account created pursuant to subsection 1 must be credited to the account, after deducting any applicable charges. Any claims against the account must be paid as other claims against the State are paid.

Sec. 15. 1. *Except as otherwise provided in subsection 2, a person shall not act as a student loan servicer, directly or indirectly, without first obtaining a license from the Commissioner pursuant to this chapter.*

2. The following persons may act as a student loan servicer without obtaining a license pursuant to this chapter:

(a) Any bank, savings and loan association, savings bank, thrift company or credit union, whether chartered by this State, another state or the Federal Government.

(b) Any wholly owned subsidiary of any person identified in paragraph (a).

(c) Any operating subsidiary of any person identified in paragraph (a) if each owner of the operating subsidiary is wholly owned by the same person identified in paragraph (a).

Sec. 16. *Except as otherwise provided in section 20 of this act, a person may apply for a license as a student loan servicer by submitting a written application to the Commissioner on a form prescribed by the Commissioner. The application must be accompanied by:*

1. A financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member authorized to execute such documents;

2. Any other information requested by the Commissioner or otherwise required in connection with the evaluation and investigation of the applicant's qualifications and suitability for licensure;

3. A nonrefundable license fee of \$1,000;

4. A nonrefundable investigation fee of \$800; and

5. A surety bond in an amount determined by the Commissioner.

Sec. 17. *Except as otherwise provided in section 20 of this act:*

1. In addition to any other requirements set forth in this chapter, a natural person who applies for the issuance or renewal of a license as a student loan servicer or, if the applicant is not a natural person, each control person of the applicant, shall:

(a) Include the social security number of the applicant or control person, as applicable, in the application submitted to the Commissioner.

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a student loan servicer may not be issued or renewed by the Commissioner if the applicant or any control person of an applicant:

(a) Fails to submit the statement required by subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant or a control person indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant or control person, as applicable, to contact the district attorney or other public agency enforcing the order to determine the actions that he or she may take to satisfy the arrearage.

5. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to an applicant or control person, the Commissioner shall deem that license to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the applicant or control person by the district attorney or other public agency pursuant to NRS 425.550 stating that he or she has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

6. The Commissioner shall reinstate a license as a student loan servicer that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the applicant or a control person of the applicant stating that the applicant or control person, as applicable, has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 18. (Deleted by amendment.)

Sec. 19. *Except as otherwise provided in section 20 of this act, upon the filing of an application for an initial license and the payment of the license fee and the investigation fee and submission of the surety bond required by section 16 of this act, the Commissioner shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The Commissioner may issue a license if the Commissioner finds that:*

1. The applicant's financial condition is sound;

2. The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of this chapter and in a manner commanding the confidence and trust of the community;

3. If the applicant is:

(a) A natural person, the person is in all respects properly qualified and of good character;

(b) A partnership, each partner is in all respects properly qualified and of good character;

(c) A corporation or association, the president, chairperson of the executive committee, senior officer responsible for the corporation's business and chief financial officer or any other person who performs similar functions as determined by the Commissioner, each director, each trustee and each shareholder owning 10 percent or more of each class of the securities of such corporation is in all respects properly qualified and of good character; or

(d) A limited liability company, each member is in all respects properly qualified and of good character;

4. No person on behalf of the applicant knowingly has made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to this chapter;

5. No person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the Commissioner any information lawfully required by the Commissioner;

6. The applicant has paid the license fee and the investigation fee and submitted the surety bond required by section 16 of this act; and

7. The applicant has met any other requirements set forth by the Commissioner in regulations adopted pursuant to this chapter.

Sec. 20. 1. *A person seeking to act as a student loan servicer is exempt from the application procedures described in subsections 1 and 2 of section 16 of this act and section 20.6 of this act upon a determination by the Commissioner that the person's student loan servicing performed in this State is conducted pursuant to a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. §*

1087f. The Commissioner shall, by regulation, prescribe the procedure for documenting a person's eligibility for this exemption.

2. Upon payment of the license fee and investigation fee and the submission of the surety bond required by section 16 of this act, the Commissioner shall:

(a) Issue a license to a person determined to be exempt pursuant to this section; and

(b) Deem the person to have satisfied all requirements set forth in sections 16 and 20.6 of this act.

3. A person issued a license pursuant to this section:

(a) Is exempt from the requirements of sections 17, 19 and 20.2 of this act; and

(b) Shall, except to the extent that those requirements are inconsistent with federal law, comply with all other applicable provisions of this chapter, including, without limitation, the record retention requirements set forth in section 28 of this act.

4. A person issued a license pursuant to this section shall provide the Commissioner with written notice within 7 days after notification of the expiration, revocation or termination of a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f. The person must satisfy all requirements set forth in sections 16 and 20.6 of this act not later than 30 days after submitting such notice to the Commissioner in order to continue to act as a student loan servicer. At the expiration of the 30-day period, if the requirements have not been satisfied, the Commissioner shall immediately suspend a license granted to the person pursuant to this section.

5. With respect to student loan servicing not conducted pursuant to a contract awarded by the United States Secretary of Education pursuant to 20 U.S.C. § 1087f, nothing in this section prevents the Commissioner from issuing or filing a civil action for an order to temporarily or permanently bar a person from acting as a student loan servicer for violating applicable law.

Sec. 20.1. 1. *The Commissioner may, in furtherance of his or her duties with respect to the issuance and renewal of licenses, participate in the Nationwide Multistate Licensing System and Registry. The Commissioner may take any action with respect to participation in the Registry that the Commissioner deems necessary to carry out his or her duties, including, without limitation:*

(a) Facilitating and participating in the establishment and implementation of the Registry;

(b) Establishing relationships or contracts with the Registry or other entities designated by the Registry;

(c) Authorizing the Registry to collect and maintain records of applicants for licenses and licensees;

(d) Authorizing the Registry to, on behalf of the Commissioner, collect and process any fees associated with licensure, examinations, fines, assessments and any other similar fees;

(e) Requiring an applicant for a licensee to use the Registry to:

(1) Apply for the issuance or renewal of a license;

(2) Amend or surrender a license;

(3) Submit any reports or the results of any examination that the Commissioner may require;

(4) Pay any applicable fees; and

(5) Engage in any other activity that the Commissioner may require; and

(f) Authorizing the Registry to, on behalf of the Commissioner, collect fingerprints in order to receive or contact a background check on the criminal history of an applicant for a license or a licensee.

2. An applicant for a license or a licensee shall, in addition to any other fees associated with the license, pay all applicable charges to use the Registry, including, without limitation, any processing charges established by the administrator of the Registry.

3. The Commissioner may adopt any regulations the Commissioner determines to be necessary or appropriate to carry out the provisions of this section. Such regulations may, without limitation, establish additional procedures and requirements for participation in the Registry.

4. The provisions of this section shall not be construed to replace or affect the authority of the Commissioner to grant, deny, suspend, terminate, revoke or refuse to renew a license.

Sec. 20.2. 1. *The Commissioner may require an applicant for a license or a licensee to submit a complete set of fingerprints when the Commissioner determines necessary.*

2. The Commissioner may use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation, to the Central Repository for Nevada Records of Criminal History, to any federal or state law enforcement agency or to any other entity authorized to receive such

information for the purpose of conducting a background check of the criminal history of an applicant for a license or a licensee.

Sec. 20.4. *1. Subject to any limitations or restrictions contained in federal or state law governing the privacy or confidentiality of records, the Commissioner shall report regularly any violations of applicable laws committed by applicants for a license or licensees, enforcement actions and other relevant information to the Registry.*

2. The requirements under any federal or state law, including, without limitation, rules of a federal or state court, regarding the privacy and confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with oversight authority over licensees without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

3. The Commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, or other associations representing governmental agencies.

Sec. 20.6. *Except as otherwise provided in section 20 of this act, in addition to any other requirements set forth by specific statute, each applicant for the issuance of a license, each control person of the applicant and any other person the Commissioner may require in accordance with guidelines of the Registry or other multistate agreements shall submit to the Registry:*

1. A complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national and international background check on the criminal history of the person;

2. Information concerning the personal history, financial history and experience of the person in a form prescribed by the Registry, including, without limitation, an authorization of the person for the Registry and the Commissioner to obtain:

(a) An independent credit report and credit score from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), for the purpose of evaluating the financial responsibility of the person at the time of the submission of the application; and

(b) Additional independent credit reports and credit scored to confirm that the applicant continues to comply with any applicable requirements concerning financial responsibility;

3. Information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the person; and

4. Any other information concerning the person that the Registry or Commissioner may require.

Sec. 20.8. *1. Each licensee shall register with and maintain a valid unique identifier with the Registry.*

2. The Commissioner may issue a license through the Registry.

3. To the extent that the Commissioner has delegated to the Registry any of his or her duties with respect to the issuance and renewal of a licenses as authorized by this chapter, any reference to the Commissioner in this chapter shall be deemed to be a reference to the Registry.

4. As used in this section, “unique identifier” means a number or other identifier assigned by the protocols of the Registry.

Sec. 21. *1. A license issued pursuant to this chapter expires on December 31 of each year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to this chapter.*

2. A licensee may renew a license issued pursuant to section 19 of this act by filing with the Commissioner an application containing the documents and fees set forth in section 16 of this act for an initial license. Such a renewal application shall be deemed to be timely filed if filed on or before November 1 of the year in which the license expires. Any renewal application filed with the Commissioner after November 1 must be accompanied by a late fee of \$100 and, if so, such a filing also shall be deemed to be timely filed. If an application for renewal of a license is timely filed with the Commissioner pursuant to this subsection on or before the date the license expires, the license sought to be renewed continues in full force and effect until the issuance by the Commissioner of the renewed license or until the Commissioner notifies the licensee in writing of the Commissioner’s refusal to issue a renewed license together with

the grounds upon which such refusal is based. The Commissioner may refuse to issue a renewed license on any ground on which the Commissioner may refuse to issue an initial license.

3. A licensee may renew a license issued pursuant to section 20 of this act by filing with the Commissioner, before the expiration of the license, an application containing any documents and fees required pursuant to section 20 for an initial license.

4. Annually, on or before April 15, each licensee shall file with the Commissioner and the Nationwide Multistate Licensing System and Registry a report of operations of the licensed business for the immediately preceding calendar year under oath and on a form prescribed by the Commissioner.

Sec. 22. 1. *Not later than 15 days after a licensee ceases to engage in the business of student loan servicing in this State for any reason, including, without limitation, a business decision to terminate operations in this State, license revocation, bankruptcy or voluntary dissolution, the licensee shall provide written notice of surrender to the Commissioner and shall surrender to the Commissioner its license for each location in which the licensee has ceased to engage in such business.*

2. A written notice of surrender provided pursuant to subsection 1 must identify the location where the records of the licensee will be stored and the name, address and telephone number of a natural person authorized to provide access to the records.

3. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring before the surrender of the license, including, without limitation, any administrative actions undertaken by the Commissioner to revoke or suspend a license, assess a civil penalty, order restitution or exercise any other authority provided to the Commissioner.

Sec. 23. *If the Commissioner determines that a check or other method of payment which is provided to the Commissioner to pay any fee required pursuant to this chapter has been returned to the Commissioner or otherwise dishonored because the person had insufficient money or credit with the drawee or financial institution to pay the check or other method of payment or because the person stopped payment on the check or other method of payment, the Commissioner shall automatically refuse to issue, suspend or refuse to renew the license, as applicable. The Commissioner must give the licensee reasonable advance notice of this automatic action and an opportunity for a hearing.*

Sec. 24. *A licensee or an applicant for a license shall notify the Commissioner, in writing, of any change in the information provided in the initial application for a license or the most recent application for renewal of such a license, as applicable, not later than 10 business days after the occurrence of the event that results in such information becoming inaccurate.*

Sec. 25. *The Commissioner may deem an application for a license abandoned if the applicant fails to respond to any request for information required pursuant to this chapter or any regulations adopted pursuant thereto. The Commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information not later than 60 days after the date on which such a request for information was made, the application shall be deemed abandoned. Any fees paid before the date an application is deemed abandoned pursuant to this section must not be refunded. Abandonment of an application pursuant to this section does not preclude the applicant from submitting a new application for a license pursuant to this chapter.*

Sec. 26. *A licensee shall not act as a student loan servicer or engage in student loan servicing under any other name or at any other place of business than that identified in the license. The licensee must notify the Commissioner in advance of any change of location of a place of business of the licensee. Only one place of business may be maintained under one license, but the Commissioner may issue more than one license to the same licensee upon the licensee's application for a license for each place of business. A license is not transferable or assignable.*

Sec. 27. 1. *Except to the extent inconsistent with federal law or regulation, a student loan servicer shall:*
(a) Respond to any written inquiry from a student loan borrower or the representative of a student loan borrower by:

(1) Acknowledging receipt of the inquiry within 10 business days; and

(2) Providing information relating to the inquiry, and, if applicable, the action the student loan servicer will take to correct the account or an explanation of the student loan servicer's position that the student loan borrower's account is correct, within 30 business days.

(b) Inquire of a student loan borrower how to apply an overpayment to a student education loan. A student loan borrower's instruction on how to apply an overpayment to a student education loan must stay in effect for any future overpayments during the term of the student education loan unless the student loan borrower provides different instructions. For the purposes of this paragraph, "overpayment" means a payment on a student education loan that is in excess of the monthly amount due from the student loan borrower on the student education loan, commonly referred to as a prepayment.

(c) Apply a partial payment from a student loan borrower on a student education loan in a manner that minimizes late fees and negative credit reporting. If there are multiple loans on a student loan borrower's account at an equal stage of delinquency, a student loan servicer shall satisfy the requirements of this subsection by applying the partial payment to satisfy as many individual loan payments as possible on the student loan borrower's account. For purposes of this subsection, "partial payment" means a payment to a student education loan account that contains multiple individual loans if the payment is in an amount less than the amount necessary to satisfy the outstanding payment due on all loans in the student education loan account, commonly referred to as an underpayment.

2. If the sale, assignment or other transfer of the servicing of a student education loan results in a change in the identity of the person to whom a student loan borrower is required to send payments or direct any communication concerning the student education loan:

(a) As a condition of a sale, an assignment or any other transfer of the servicing of a student education loan, require the new student loan servicer to honor all benefits originally represented as available to the student loan borrower during the repayment of the student education loan and preserve the availability of those benefits, including, without limitation, any benefits for which the student loan borrower has not yet qualified;

(b) Transfer to the new student loan servicer for the student education loan all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower. The information must include, without limitation, the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower; and

(c) Complete the transfer of information required by paragraph (b) within 45 calendar days after the sale, assignment or other transfer of the servicing of the student education loan.

3. A student loan servicer who obtains the right to service a student education loan shall adopt policies and procedures to verify that the student loan servicer has received all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower including, without limitation, the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower.

4. A student loan servicer shall evaluate a student loan borrower for eligibility for an income-driven repayment program before placing the student loan borrower in forbearance or default if an income-driven repayment program is available to the student loan borrower.

Sec. 28. 1. *Except to the extent inconsistent with federal law or regulation, a student loan servicer shall maintain a record of each transaction relating to a student education loan for not less than 2 years following the final payment on the student education loan or the assignment of the student education loan, whichever occurs first, or such longer period as may be required by any other provision of law.*

2. Upon the request of the Commissioner, a person required to maintain records pursuant to subsection 1 shall make such records available to the Commissioner, or send the records to the

Commissioner, in the manner required by the Commissioner, not later than 5 business days after requested by the Commissioner. Upon the person's request, the Commissioner may allow additional time to make the records available to the Commissioner or to send the records to the Commissioner.

Sec. 29. *A student loan servicer shall not:*

1. Directly or indirectly employ any scheme, device or artifice to defraud or mislead a student loan borrower.

2. Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, without limitation, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the student loan borrower's obligations under the loan.

3. Obtain property by fraud or misrepresentation.

4. Misapply student education loan payments to the outstanding balance of a student education loan.

5. Provide inaccurate information to a credit bureau in a manner which may harm a student loan borrower's creditworthiness.

6. Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to a credit bureau.

7. Refuse to communicate with an authorized representative of the student loan borrower if the authorized representative:

(a) Provides a written authorization signed by the student loan borrower; and

(b) Complies with any reasonable procedures which may be adopted by the student loan servicer to verify that the representative is in fact authorized to act on behalf of the student loan borrower.

8. Make any false statement or omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the Commissioner or another governmental agency.

9. Fail to respond within 15 business days to communications from the Commissioner, or within a shorter, reasonable period of time as may be requested by the Commissioner.

10. Fail to respond within 15 business days to a consumer complaint submitted to the student loan servicer by the Commissioner or the Office of the Attorney General. If necessary, the student loan servicer may request additional time to respond to the complaint, up to a maximum of 45 business days, provided that the request is accompanied by an explanation of why additional time is reasonable and necessary.

11. Engage in abusive acts or practices when servicing a student education loan in this State. An act or practice is abusive in connection with the servicing of a student education loan if that act or practice:

(a) Materially interferes with the ability of a student loan borrower to understand a term or condition of a student education loan; or

(b) Takes unreasonable advantage of any of the following:

(1) A lack of understanding on the part of a student loan borrower of the material risks, costs or conditions of the student education loan;

(2) The inability of a student loan borrower to protect the interests of the student loan borrower when selecting or using a student education loan or feature, term or condition of a student education loan; or

(3) The reasonable reliance by the student loan borrower on a person engaged in servicing a student education loan to act in the interests of the student loan borrower.

Sec. 30. 1. *The Student Loan Ombudsman designated pursuant to NRS 226.560 or a member of the public may submit a complaint concerning a student loan servicer to the Commissioner for investigation pursuant to section 38 of this act.*

2. The Division of Financial Institutions shall share a complaint submitted pursuant to this section with the Office of the Attorney General in accordance with section 54 of this act.

Sec. 31. 1. *Before the extension of a private education loan that requires a cosigner, a private education lender shall deliver to the cosigner information concerning, without limitation:*

(a) How the private education loan obligation will appear on the cosigner's credit;

(b) How the cosigner will be notified if the private education loan becomes delinquent;

(c) How the cosigner can cure a delinquency in order to avoid negative credit furnishing and loss of cosigner release eligibility; and

(d) The eligibility of the cosigner to be released from his or her obligation on the private education loan, including, without limitation, the number of on-time payments and any other criteria required to approve the release of the cosigner from his or her obligation on the private education loan.

2. For any private education loan that obligates a cosigner, a private education lender shall provide the private education loan borrower and the cosigner an annual written notice containing information about the release of the cosigner from his or her obligation on the private education loan, including, without limitation:

(a) Any administrative, non-judgmental criteria the private education lender requires to approve the release of the cosigner from the private education loan obligation; and

(b) The process for applying for cosigner release.

3. If the private education loan borrower has met the applicable payment requirements to be eligible for cosigner release, the private education lender shall send the private education loan borrower and the cosigner a written notification by mail and by electronic mail, if the private education loan borrower or cosigner has elected to receive electronic communications from the private education lender, informing the private education loan borrower and cosigner that the payment requirement to be eligible for cosigner release has been met. The notification must also include information about any additional criteria to qualify for cosigner release and the procedure to apply for cosigner release.

4. A private education lender shall provide written notice to a private education loan borrower who applies for cosigner release but whose application is incomplete. The written notice shall include a description of the information needed to consider the application complete and the date by which the applicant must furnish the missing information.

5. Within 30 days after a private education loan borrower submits a completed application for cosigner release, the private education lender shall send the private education loan borrower and cosigner a written notice that informs the private education loan borrower and cosigner whether the cosigner release application has been approved or denied. If the private education lender denies a request for cosigner release, the private education loan borrower may request any documents or information used in the determination, including, without limitation, the credit score threshold used by the private education lender, the private education loan borrower's consumer credit report, the private education loan borrower's credit score and any other documents specific to the private education loan borrower. The private education lender shall also provide any notices of adverse action required under applicable federal law if the denial is based in whole or in part on any information contained in a consumer credit report.

6. In response to a written or oral request for cosigner release, a private education lender shall provide the information described in subsection 2.

7. A private education lender shall not impose any restriction that permanently bars a private education loan borrower from qualifying for cosigner release, including, without limitation, restricting the number of times a private education loan borrower may apply for cosigner release.

8. A private education lender shall not impose any negative consequences on any private education loan borrower or cosigner during the 60 days following the issuance of the notice provided pursuant to subsection 4 or until the private education lender makes a final determination about a private education loan borrower's cosigner application for release. For the purposes of this subsection, "negative consequences" includes, without limitation, the imposition of additional eligibility criteria, negative credit reporting, lost eligibility for cosigner release, late fees, interest capitalization or other financial injury.

9. For any private education loan made on or after January 1, 2024, a private education lender shall not require more than 12 consecutive, on-time payments as criteria for cosigner release. Any private education loan borrower who has paid the equivalent of 12 months of principal and interest payments within any 12-month period shall be deemed to have satisfied the consecutive, on-time payment requirement, even if the private education loan borrower has not made payments monthly during the 12-month period.

10. If a private education loan borrower or cosigner requests a change in terms that restarts the count of consecutive, on-time payments required for cosigner release, the private education lender shall notify the private education loan borrower and cosigner in writing of the impact of the change and provide the private education loan borrower or cosigner the right to withdraw or reverse the request to avoid that impact.

11. A private education loan borrower has the right to request an appeal of a private education lender's determination to deny a request for cosigner release, and the private education lender shall permit the private education loan borrower to submit additional documentation evidencing the private education loan borrower's ability, willingness and stability to meet the payment obligations. The private education loan borrower may request review of the determination made regarding cosigner release by another employee of the private education lender.

12. A private education lender shall establish and maintain a comprehensive record management system reasonably designed to ensure the accuracy, integrity and completeness of data and other information about cosigner release applications and to ensure compliance with applicable state and federal laws, including, without limitation, the federal Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq., and the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq. This system must include the number of cosigner release applications received, the approval and denial rate and the primary reasons for any denial.

13. A private education lender shall provide a cosigner with access to all documents or records related to the cosigned private education loan that are available to the private education loan borrower.

14. If a private education lender provides electronic access to documents and records for a private education loan borrower, the private education lender shall provide equivalent electronic access to the cosigner.

Sec. 32. 1. *A private education loan made on or after January 1, 2024, may not include a provision that allows the private education lender to accelerate, in whole or in part, payments on the private education loan, except in cases of payment default. A private education lender shall not place any loan or account into default or accelerate a loan for any reason, other than for payment default.*

2. A private education loan made before January 1, 2024, may permit the private education lender to accelerate payments only if the promissory note or loan agreement explicitly authorizes an acceleration and only for the reasons stated in the note or agreement.

3. In the event of the death or bankruptcy of a cosigner:

(a) The private education lender must not attempt to collect against the cosigner's estate or bankruptcy estate, other than for payment default.

(b) Upon receiving notification of the death or bankruptcy of a cosigner, when the private education loan is not more than 60 days delinquent at the time of the notification, the private education lender shall not change any terms or benefits under the promissory note, repayment schedule, repayment terms or monthly payment amount or any other provision associated with the loan.

4. A private education lender shall not place any private education loan or account into default or accelerate a private education loan while a private education loan borrower is seeking a loan modification or enrollment in a flexible repayment plan, except that a private education lender may place a loan or account into default or accelerate a loan for payment default 90 days following the private education loan borrower's default.

Sec. 33. 1. A private education lender, when notified of the total and permanent disability of a private education loan borrower or cosigner, shall release any cosigner from the obligations of the cosigner under a private education loan. The private education lender shall not attempt to collect a payment from a cosigner following a notification of total and permanent disability of the private education loan borrower or cosigner.

2. A private education lender shall notify a private education loan borrower and cosigner for a private education loan if either a private education loan borrower or cosigner is released from the obligations of the private education loan under this section, within 30 days after the release.

3. A private education lender that extends a private education loan shall provide the private education loan borrower an option to designate an individual to have the legal authority to act on behalf of the private education loan borrower with respect to the loan in the event of the total and permanent disability of the private education loan borrower.

4. If a cosigner is released from the obligations of a private education loan pursuant to section 31 of this act, the private education lender shall not:

(a) Require the private education loan borrower to obtain another cosigner on the private education loan obligation.

(b) Declare a default or accelerate the debt against the private education loan borrower on the sole basis of the release of the cosigner from the private education loan obligation.

5. A private education lender, if notified of the total and permanent disability of a private education loan borrower:

(a) Shall discharge the liability of the private education loan borrower and cosigner on the private education loan; and

(b) Shall not:

(1) Attempt to collect on the outstanding liability of the private education loan borrower or cosigner; or

(2) Monitor the disability status of the private education loan borrower at any point after the date of discharge.

6. As used in this section, "total and permanent disability" means that a person:

(a) Has been determined by the United States Secretary of Veterans Affairs to be unemployable due to a service-connected disability; or

(b) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 12 months or can be expected to last for a continuous period of not less than 12 months.

Sec. 34. 1. A private education lender shall, before offering a person a private education loan that is being used to refinance an existing private education loan, provide to the person a disclosure that informs the person that benefits and protections applicable to the existing private education loan may be lost due to the refinancing. The information must be provided on a one-page information sheet in at least 12-point font and must be written in simple, clear, understandable and easily readable language.

2. If a private education lender offers any private education loan borrower flexible repayment options in connection with a private education loan, those flexible repayment options must be made available to all private education loan borrowers of loans by the private education lender. A private education lender shall:

(a) Provide on its Internet website a description of any flexible repayment options offered by the private education lender for private education loans;

(b) Establish and consistently implement policies and procedures that facilitate the evaluation of private education loan flexible repayment option requests, including, without limitation, policies and procedures that provide accurate information regarding any private education loan flexible repayment option that:

(1) May be available to the private education loan borrower through the promissory note; or

(2) May have been marketed to the private education loan borrower through marketing materials; and

- (c) If the private education lender offers flexible repayment options, consistently present and offer similar options to private education loan borrowers with similar financial circumstances; and*
- (d) Annually issue a letter to the private education loan borrower and cosigner that sets forth, without limitation: (1) The total cumulative principal and interest amount of all private education loans owed by the private education loan borrower or cosigner to the private education lender;*
- (2) The total payoff amount of the loans listed in subparagraph (1); and*
- (3) Estimated monthly payment amounts if the private education loan borrower or cosigner were to enroll in a flexible repayment plan offered by the private education lender.*

Sec. 35. A private education lender shall not:

- 1. Offer any private education loan that does not comply with the provisions of sections 31 to 35, inclusive, of this act, or that is in violation of any other state or federal law.*
- 2. Engage in any unfair, deceptive or abusive act or practice.*
- 3. Make a private education loan upon the security of any assignment of or order for the payment of any salary, wages, commissions or other compensation for services earned, or to be earned. No assignment or order to secure a private education loan may be taken by a private education lender in connection with a private education loan, or for the enforcement or repayment thereof. Any assignment or order taken or given to secure any loan made by any lender pursuant to sections 31 to 35, inclusive, of this act is void.*
- 4. Make, advertise, print, display, publish, distribute, electronically transmit, telecast or broadcast in any manner any statement or representation that is false, misleading or deceptive.*

Sec. 36. A private education lender shall:

- 1. Establish and maintain records and permit the Division of Financial Institutions to access and copy any records required to be maintained pursuant to the provisions of this chapter; and*
- 2. Retain a loan file, including, without limitation, any record specified for retention by regulations adopted by the Commissioner, for not less than 6 years after the termination of the private education loan account.*

Sec. 37. Sections 31 to 37, inclusive, of this act do not exempt a private education lender from complying with any requirement to obtain a license imposed by any other specific statute, including, without limitation, the provisions of chapter 675 of NRS. The Commissioner shall determine the particular license that a private education lender is required to obtain.

Sec. 38. In addition to any other authority provided under this title, the Commissioner may conduct investigations and examinations as follows:

- 1. For purposes of initial licensing, license renewal, license suspension, license revocation or termination or general or specific inquiry or investigation to determine compliance with this chapter, the Commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence, including, without limitation:*
 - (a) Criminal, civil and administrative history information;*
 - (b) Personal history and experience information, including, without limitation, independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a; and*
 - (c) Any other documents, information or evidence the Commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.*
- 2. For the purposes of investigating violations or complaints arising under this chapter or for the purposes of examination, the Commissioner may review, investigate or examine any student loan servicer or other person subject to this chapter as often as necessary in order to carry out the purposes of this chapter. The Commissioner may direct, subpoena or order the attendance of and examine under oath any person whose testimony may be required regarding a student education loan, the business of a student loan servicer or the subject matter of any examination or investigation, and may direct, subpoena or order such a person to produce books, accounts, records, files and any other documents the Commissioner deems relevant to the inquiry.*
- 3. In making any examination or investigation authorized by this section, the Commissioner may control access to any documents and records of a student loan servicer or other person under examination or*

investigation. The Commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, a person shall not remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Commissioner. Unless the Commissioner has reasonable grounds to believe the documents or records of the student loan servicer or other person under examination or investigation have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this chapter, the student loan servicer, the other person under examination or investigation or the owner of the documents and records must be allowed access to the documents or records as necessary to conduct ordinary business affairs.

4. At least once each year, the Commissioner or his or her authorized representative shall conduct an investigation and examination of each licensee pursuant to this section.

5. In addition to the fees prescribed in section 16 of this act, if it becomes necessary to examine or investigate the books and records of a licensee pursuant to this chapter, the licensee shall be liable for and shall pay to the Commissioner, within 30 days after the presentation of an itemized statement therefor, an amount determined by the Commissioner at the rate for supervision and examination of a financial institution established and, if applicable, adjusted pursuant to NRS 658.101.

Sec. 39. *Each licensee shall pay, in addition to any other assessment, fee or cost required pursuant to this chapter:*

1. The assessment levied pursuant to NRS 658.055 to cover all the costs related to the employment by the Commissioner of a certified public accountant and the performance by the certified public accountant of independent audits and examinations; and

2. The assessment levied pursuant to NRS 658.098 to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions.

Sec. 40. 1. *The Commissioner may monitor the market for the provision of student loan servicing and student education loans, including, without limitation, private education loans, to identify risks to consumers. In conducting such monitoring, the Commissioner may compile and analyze data and other information to assess:*

(a) The likely risk and costs to consumers associated with using or repaying a student education loan or with the servicing of a student education loan;

(b) The understanding by consumers of the risks of a student education loan or the servicing of a student education loan;

(c) The legal protections applicable to the offering or provision of a student education loan or the servicing of a student education loan and the adequacy of those legal protections to protect consumers;

(d) The rates of growth in the offering or provision of a student education loan or the servicing of that loan;

(e) The extent, if any, to which the risks of a student education loan or the servicing of a student education loan disproportionately affect traditionally underserved consumers; and

(f) The type, number and other pertinent characteristics of private education lenders and student loan servicers in this State.

2. To the extent that state law is not preempted by federal law, in conducting monitoring or assessment pursuant to this section the Commissioner may gather information regarding the organization, business conduct, markets and activities of private education lenders and student loan servicers in this State. The Commissioner may enter into contracts to perform the activities authorized by this section, as necessary.

3. In order to gather information described in subsection 2, the Commissioner may:

(a) Gather and compile information from a variety of sources, including, without limitation, consumer complaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews of private education lenders and student loan servicers and available databases; and

(b) Require persons engaged in private education lending or student loan servicing in this State to file, under oath or otherwise, in the form and within a reasonable period of time as the Commissioner may prescribe, any annual or special reports or answers in writing to specific questions that the Commissioner deems necessary to carry out the provisions of this section.

4. In addition to any other monitoring activities authorized by this section, the Commissioner may gather and compile information from private education lenders and student loan servicers to assemble data

concerning the total size of the student education loan market in this State, the servicing of student education loans owed by borrowers at risk of default, the servicing of private education loans owed by borrowers experiencing financial distress and the servicing of federal student education loans for borrowers who seek to repay their loans under an income-driven repayment plan, as described in 20 U.S.C. §§ 1070 et seq.

5. The Commissioner may, on a quarterly basis, develop and publicize metrics based on data collected pursuant to this section. Such metrics may include, without limitation, relevant performance metrics concerning specifically identified private education lenders and student loan servicers.

6. In conducting the activities authorized by this section, the Commissioner may meet and confer with the Student Loan Ombudsman, designated pursuant to NRS 226.560, the Office of the Attorney General and the Nevada System of Higher Education.

Sec. 41. *To carry out the purposes of this chapter, the Commissioner may:*

1. Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

2. Enter into agreements or relationships with other governmental officials or regulatory associations to improve efficiency and reduce any regulatory burden by sharing resources, standardizing or making uniform any applicable methods or procedures and sharing documents, records, information or evidence obtained pursuant to this chapter;

3. Use, hire, contract or employ publicly or privately available analytical systems, methods or software to examine or investigate a student loan servicer or other person under examination or investigation;

4. Accept and rely on examination or investigation reports made by other governmental officials, within or outside this State; and

5. Accept audit reports made by an independent certified public accountant for a student loan servicer or other person under examination or investigation in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in any report of examination, report of investigation or other writing of the Commissioner.

Sec. 42. *The authority of the Commissioner pursuant to this chapter with regard to a student loan servicer or other person under examination or investigation remains in effect, without regard to whether the student loan servicer or other person acts or claims to act under any other licensing or registration law of this State, or claims to act without such authority.*

Sec. 43. *A student loan servicer or other person under examination or investigation pursuant to this chapter shall not knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information related to an investigation or examination conducted pursuant to this chapter.*

Sec. 44. *The Commissioner may, as applicable, deny an application for a license issued pursuant to this chapter or suspend, revoke or refuse to renew a license issued pursuant to this chapter if the Commissioner finds that:*

1. The applicant, licensee or a control person of the applicant or licensee has violated any provision of this chapter or any regulation adopted pursuant thereto;

2. With regard to a licensee or a control person of the licensee, any fact or condition exists which, if it had existed at the time of the original application for the license, would have resulted in a denial of the application; or

3. The licensee has failed to pay, within 30 days after receiving an itemized statement or other demand for payment from the Commissioner, any assessment, fee or cost required pursuant to this chapter.

Sec. 45. *All fees paid pursuant to this chapter are nonrefundable, including, without limitation, if a license is surrendered, revoked or suspended before the expiration of the period for which it was issued.*

Sec. 46. *A student loan servicer and private education lender shall comply with all applicable federal laws and regulations relating to student loan servicing or lending, including, without limitation, the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and the regulations promulgated thereunder. In addition to any other remedies provided by law, a violation of any such federal law or regulation shall be deemed a violation of this chapter.*

Sec. 47. 1. *A person who suffers damage as a result of the failure of a student loan servicer or private education lender to comply with the provisions of this chapter may bring an action on his or her own*

behalf and on behalf of a similarly situated class of persons against that student loan servicer or private education lender to recover or obtain:

- (a) Actual damages, but in no case may the total award be less than \$500 per plaintiff, per violation;*
- (b) An order enjoining the methods, acts or practices;*
- (c) Restitution of property;*
- (d) Punitive damages;*
- (e) Attorney's fees; and*
- (f) Any other relief that the court deems proper.*

2. In addition to any other remedies provided by this section or otherwise provided by law, whenever it is proven by a preponderance of the evidence that a student loan servicer or private education lender has engaged in conduct that substantially interferes with a student loan borrower's right to a flexible payment arrangement, right to the forgiveness, cancellation or discharge of a loan or right to any other financial benefit, as established under the terms of a student loan borrower's promissory note or under the Higher Education Act of 1965, 20 U.S.C. §§ 1071 et seq., and the regulations promulgated thereunder, the court shall award treble actual damages to the plaintiff, but in no case may the total award of damages be less than \$1,500 per plaintiff, per violation.

Sec. 48. 1. *A violation of any provision of this chapter may also be a violation of chapter 598B of NRS, the Nevada Equal Credit Opportunity Law.*

2. In addition to any other remedies provided by this section or otherwise provided by law, whenever it is proven by a preponderance of the evidence in a civil action that a person or entity that makes a student education loan, including, without limitation, a private education lender, has filed information required pursuant to this chapter that is false, the court shall award treble damages to the student loan borrower, including, without limitation, a private education loan borrower, but in no case may the total award of damages in action be less than \$1,500.

3. The rights, remedies and penalties provided by this chapter are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

Sec. 49. *Except as otherwise provided in this section and NRS 239.0115, any books, records or other information obtained by the Division in connection with an application, complaint, audit, investigation or examination pursuant to this chapter, or in response to a subpoena, are confidential and may be disclosed only to:*

- 1. The Division, any authorized employee or representative of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and*
- 2. Any person if the Commissioner, in his or her discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.*

Sec. 50. *The Attorney General may bring an action in the name of the State of Nevada to restrain or prevent any violation of this chapter or any continuance of any such violation.*

Sec. 51. *The Commissioner shall adopt any regulations necessary to carry out the provisions of this chapter.*

Sec. 52. NRS 657.005 is hereby amended to read as follows:

657.005 As used in chapters 657 to 671, inclusive, of NRS, *and the chapter consisting of sections 2 to 51, inclusive, of this act*, unless the context otherwise requires, the words and terms defined

in NRS 657.016 to 657.085, inclusive, have the meanings ascribed to them in those sections.

Sec. 53. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

- (a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;
- (b) Collection agency that is supervised pursuant to chapter 649 of NRS;
- (c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;
- (d) Trust company or family trust company that is supervised pursuant to chapter 669 or 669A of NRS;
- (e) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;
- (f) Savings and loan association or savings bank that is supervised pursuant to chapter 673 of NRS;
- (g) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;
- (h) Thrift company that is supervised pursuant to chapter 677 of NRS; **[and]**
- (i) Credit union that is supervised pursuant to chapter 672 of NRS ; **[.]**
- (j) Consumer litigation funding company that is supervised pursuant to chapter 604C of NRS **[.]**; **and**
- (k) Student loan servicer that is supervised pursuant to the chapter consisting of sections 2 to 51, inclusive, of this act.***

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

- (a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or
- (b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 54. Chapter 226 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Student Loan Ombudsman shall make all complaints received pursuant to NRS 226.570 available to the Office of the Attorney General.

2. The Student Loan Ombudsman and the Attorney General shall enter into an information-sharing agreement for the sharing of complaints between offices.

Sec. 55. NRS 226.500 is hereby amended to read as follows:

226.500 As used in NRS 226.500 to 226.590, inclusive, ***and section 54 of this act***, unless the context otherwise requires, the words and terms defined in NRS 226.510 to 226.550, inclusive, have the meanings ascribed to them in those sections.

Sec. 56. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,

178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *section 49 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general

public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Secs. 57-59. (Deleted by amendment.)

Sec. 60. As soon as practicable after January 1, 2024, the Student Loan Ombudsman designated pursuant to NRS 226.560 and the Attorney General shall enter into the information-sharing agreement required by section 54 of this act.

Sec. 61. (Deleted by amendment.)

Sec. 62. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 61, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.

3. Section 17 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.