

STATE OF NEVADA



STEVE SISOLAK
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

TERRY REYNOLDS
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

**Minutes of Adoption Hearing to Solicit Comments
On Proposed Regulations S.B.311- NRS/NAC 598B**

Date: Wednesday, November 4, 2020

Time: 10:00 a.m.

Location: Webex meeting- videoconference and teleconference

1. Call to Order:

The adoption hearing to consider S.B.311 was called to order Wednesday, November 4, 2020 at 10:03 a.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulation pertaining to Chapter 598B of the Nevada Administrative Code ("NAC"), as provided by Senate Bill No. 311, relating to equal opportunity for credit; interpreting the phrase "no credit history" for the purposes of certain statutory provisions; clarifying the applicability of certain statutory provisions; clarifying the rights and responsibilities provided in certain statutory provisions; and providing other matters properly relating thereto, as described by the Notice of Intent to Act Upon a Regulation and Hearing Agenda dated and posted on October 2, 2020.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Deputy Attorney General Vivienne Rakowsky
Examiner Jennifer Ramsay

2. Comments by General Public:

There was one (1) commenter during this public comment period.

- Malani Kotchka-Alanes, TitleMax Nevada, Inc. suggested to add "or state law" in section 3(1) to read, in part, without violating federal or state law.

To review and/or listen to comments in its entirety, please refer to the attached written comment and/or the audio recording below. The recording can also be found at: www.fid.nv.gov



150101_0002.MP3

3. Presentation and Discussion of Proposed Regulation:

The proposed regulation was read into record.

Regulation:

Section 1. Chapter 598B of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Section 2. As used in NRS 598B.135, the Commissioner of Financial Institutions will interpret the phrase “no credit history” to mean that the credit report of the applicant does not contain any information concerning any credit transaction.

Section 3. The provisions of NRS 598B.135 do not apply to a creditor with regard to an application for credit if:

1. The creditor cannot comply with NRS 598B.135 without violating federal law.
2. The creditor cannot legally obtain the credit history of the spouse or former spouse of the applicant as needed to comply with NRS 598B.135.
3. The credit history of the spouse or former spouse of the applicant which is needed to comply with NRS 598B.135 is not available to the creditor for any reason beyond the control of the creditor, including, without limitation, when the necessary credit history is no longer retained by a credit reporting agency.

Section 4. Except as otherwise provided in section 3 of this regulation, the Commissioner will interpret NRS 598B.135 so that the rights of applicants and the responsibilities of creditors for the purposes of NRS 598B.135 shall be deemed to be coextensive with the respective rights and responsibilities under 12 C.F.R. § 1002.6(b)(6)(iii).

Consideration of comments received from the first workshop and received prior to the October 28, 2020 deadline for the adoption hearing. The following is a summary of the comments received for the regulation. The division received one written comment prior to the first workshop and two (2) public comments made during the first workshop.

- The one written comment was received from Phyllis Gurgevich, Nevada Bankers Association. The written comment was received and in support of the proposed regulation. The comment is a joint letter from American Financial Services Association, Nevada Bankers Association, Nevada Credit Union League, Nevada Franchised Auto Dealers Association, and the Nevada Mortgage Lenders Association.
- Danielle Arlowe, American Financial Services Association, appreciates and commends the division in its efforts. “The division did the most it can do considering the law itself, even though well intended, the law doesn’t work, and members cannot comply.”

- Victoria Newman, TitleMax Nevada, Inc. suggested to add “or state law” in section 3(1) to read, in part, without violating federal or state law.

No action was required for the comments provided in support of the proposed language.

No action was taken concerning the comment regarding adding the verbiage “or state law” as this regulation was to align the language in S.B.311 to federal law.

4. Adoption of Proposed Regulation:

As the Deputy Commissioner of the Financial Institutions Division, I adopted regulation R097-20, which pertains to Chapter 598B of the Nevada Administrative Code, as that regulation is described in the Legislative Counsel Bureau version dated August 21, 2020.

5. Public Comments:

There was zero (0) commenters during this public comment period.

6. Close Workshop (Adjournment):

The workshop pertaining to Senate Bill 311 and Chapter 598B of the Nevada Administrative Code was hereby closed and adjourned on November 4, 2020 at 10:11 a.m.