

STATE OF NEVADA



STEVE SISOLAK  
*Governor*

DEPARTMENT OF BUSINESS AND INDUSTRY

TERRY REYNOLDS  
*Director*

**FINANCIAL INSTITUTIONS DIVISION**

SANDY O'LAUGHLIN  
*Commissioner*

**Minutes of Workshop to Solicit Comments on  
Proposed Regulations S.B.311- NRS/NAC 598B**

Date: Wednesday, September 16, 2020

Time: 1:00 p.m.

Location: Webex meeting- videoconference and teleconference

1. Call to Order:

The workshop to consider S.B.311 was called to order Wednesday, September 16, 2020 at 1:02 p.m. The purpose of the workshop 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 Workshop dated and posted on August 31, 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.

- 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.

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](http://www.fid.nv.gov)



recording sb 311  
workshop 1pm.wrf

### 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).

#### 4. Public Comments:

There was two (2) commenters during this public comment period.

- 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.
- Phyllis Gurgevich, Nevada Bankers Association, wanted to confirm receipt of her written comment. The written comment was received and in support of the proposed regulation. It's 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.

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5.Close Workshop (Adjournment):

The workshop pertaining to Senate Bill 311 and Chapter 598B of the Nevada Administrative Code was hereby closed and adjourned on September 16, 2020 at 1:12 p.m.



September 14, 2020

To Whom It May Concern,

The American Financial Services Association, Nevada Bankers Association, Nevada Credit Union League, Nevada Franchised Auto Dealers Association and Nevada Mortgage Lenders Association write in full support of the regulations proposed by the Financial Institutions Division as a result of the passage of Senate Bill 311 (“S.B. 311”).

While the intent of S.B. 311 is admirable, unfortunately, it creates an inevitable conflict with federal law. Our members are very grateful to the Nevada Financial Institutions Division for recognizing critical challenges of implementation and the presence of federal preemption. We appreciate its efforts to help lenders comply with both federal and state requirements.

We believe it is important to highlight that lending is a highly regulated industry that relies on extreme clarity. Even with this helpful regulation, S.B. 311 may still create consumer confusion and lenders may still encounter an inability to develop required procedures that clearly demonstrate or certify statements of regulatory compliance.

For that reason, the American Financial Services Association, Nevada Bankers Association, Nevada Credit Union League, Nevada Franchised Auto Dealers Association and Nevada Mortgage Lenders Association are committed to continuing to work with regulators and lawmakers in Nevada to realize the goals of S.B. 311 while making it possible for lenders to comply with its provisions.

Respectfully,

American Financial Services Association  
Nevada Bankers Association  
Nevada Credit Union League  
Nevada Franchised Auto Dealers Association  
Nevada Mortgage Lenders Association