

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

DEPARTMENT OF BUSINESS OVERSIGHT
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**NOTICE OF MODIFICATIONS TO PROPOSED REGULATIONS UNDER THE
 STUDENT LOAN SERVICING ACT**

To Interested Persons:

On September 8, 2017, the Commissioner of Business Oversight published a Notice of Rulemaking Action to adopt sections 2032 through 2057 in Subchapter 15, Chapter 3, of Title 10 of the California Code of Regulations (see California Regulatory Notice Register 2017, No. 36-Z). The proposed sections implement the Student Loan Servicing Act (AB 2251, Ch. 824, Stats. 2016), which becomes operative on July 1, 2018.

After consideration of public comments, the Commissioner is proposing additional changes to the regulations. A copy of the proposed revisions is being made available to the public in accordance with the requirements of Government Code section 11346.8(c). The text showing modifications to some of proposed sections 2032 through 2057 is attached. The originally proposed sections are shown in single underline, and the additional changes proposed by this notice are shown by double underlining of additions and double strike-out of deletions. The public may submit comments on the proposed changes, as described more fully below.

DESCRIPTION OF CHANGES

The proposed changes are in response to comments to the originally proposed sections, received by the Commissioner. The proposed changes, grouped by subject matter, would:

BORROWER COMMUNICATIONS and INFORMATION

- clarify that only servicers who service federal student loans are required to post information about federal loan repayment and loan forgiveness options on their

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websites, and send annual notices to borrowers, providing this information or links to this information;

- clarify that servicers of private student loans may provide information about repayment options customized to the loan and borrower;
- provide that servicers of federal or private loans may send required annual notices about repayment and loan forgiveness options in the same communication as any other annual communication;
- revise the rule to provide that, for borrowers who do not opt in to, or consent to receiving paperless communications, servicers must send communications by regular mail, through the United States Postal Service, and only through email if postal communications are returned as undeliverable; and
- add a new rule to limit to three notices a servicer must send a borrower stating that there will be no further response to a “qualified written request,” because the borrower has previously submitted the same request, received a response, and provided no new information.

MISCELLANEOUS

- delete the rule requiring servicers to appoint the Commissioner as agent for service of process;
- provide that a servicer whose contract has been terminated may satisfy the rule’s requirements to surrender its license to the Commissioner by providing the termination requirements of the U.S. Department of Education, or private lender, and evidence of satisfaction thereof;
- accord the rules with servicers’ actual business operations and industry practices, including allowing information about repayment and loan forgiveness options to be available through links on the servicer’s homepage to web pages, rather than aggregated on the home page;
- revise certain verbiage to accord with industry terms of art and business operations; and
- renumber sections as necessitated by proposed changes.

PAYMENTS

- clarify that, for payments (primarily, if not exclusively, paper checks) received without information identifying to which account the payment should be credited, servicers have a reasonable period of time (not limited to three business days) to research and apply the payment and update a borrower’s on-line account to reflect payments made; and
- revise the rule regarding co-signers, to require, simply, that servicers provide a specific process and tools for co-signers to follow, to ensure that co-signer payments are credited to the loan(s) the co-signer has co-signed.

SERVICER RECORDS

- provide that servicers need not submit changes to their Policies and Procedures,

demonstrating how the servicer complies with the consumer protection provisions of the Student Loan Servicing Act, between regulatory examinations;

- delete the rule requiring monthly reconciliations of trust accounts;
- clarify that servicers may provide the required aggregate student loan servicing report, through separate reports for each type of loan serviced;
- clarify that servicers must retain loan records for three years after paid off, assigned to collection, or transferred, unless the servicer's contract with the lender mandates purging sooner than three years;
- delete Section 2056, subdivision (b), of the rule regarding electronic records; and
- clarify that a servicer's books, records and accounts must be accessible to the Department at one of the servicer's licensed locations, and that servicers are only required to maintain individual student loan records they have received or have access to.

The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available on the Department of Business Oversight's website at www.dbo.ca.gov, and from the Legal Division of the Department of Business Oversight. As required by the Administrative Procedure Act, the Legal Division maintains a rulemaking file containing all the information upon which the proposal is based. The rulemaking file is available for public inspection during regular business hours. Comments or inquiries concerning these proposed regulation changes may be directed to Mark Dyer at (916) 322-1977.

15-DAY COMMENT PERIOD

Any interested person may submit written comments regarding the changes from the originally proposed sections by written communication addressed as follows:

Commissioner of Business Oversight
Attn: Mark Dyer, Regulations Coordinator, Legal Division
1515 K Street, Suite 200
Sacramento, CA 95814

Comments must be received by June 18, 2018. Written comments may also be sent to Mark Dyer via electronic mail at regulations@dbo.ca.gov.

The proposed additions to the Commissioner's rules in the text accompanying this notice are not yet effective, and will not be effective until approved by the Office of Administrative Law and filed with the Secretary of State in accordance with Government Code section 11349.3. Questions regarding the content of this notice may be directed to Mark Dyer at (916) 322-1977.

Dated: May 31, 2018
 Sacramento, California