

STATE OF CALIFORNIA
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

TEXT OF PROPOSED CHANGES TO REGULATIONS
UNDER THE STUDENT LOAN SERVICING ACT

CALIFORNIA CODE OF REGULATIONS,
TITLE 10, CHAPTER 3, SUBCHAPTER 15
(Deletions shown by strike through; additions shown by underline.)

Subchapter 15. Student Loan Servicing Act

Article 2. Application for Licensure and Related Forms

§2034. Appointment of Commissioner of ~~Business Oversight~~ Financial

Protection and Innovation as Agent for Service of Process.

(a) Applicants are required to complete and submit to the Commissioner, in accordance with subsections (b) and (c), the following Appointment Of Commissioner Of ~~Business Oversight~~ Financial Protection and Innovation As Agent For Service Of Process form:

STATE OF CALIFORNIA –DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION
APPOINTMENT OF COMMISSIONER OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION AS AGENT FOR SERVICE OF PROCESS PURSUANT TO SECTION 281127 of the California Financial Code

(Name of Applicant), (hereinafter referred to as the "Applicant"), which is applying for a license under the Student Loan Servicing Act (commencing with Section 28100 of the California Financial Code), hereby irrevocably appoints the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California and his or her successor, to be the Applicant's agent to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the Applicant, or any successor, executor, or administrator of the Applicant, which arises under the Student Loan Servicing Act, or under any regulation or order issued under the Student Loan Servicing Act, with the same force and validity as if served personally on the Applicant.

Dated: _____

Name of Applicant (Printed)

By: _____

(Signature)

(The signature of the Applicant must be notarized.)

(b) The Appointment form must be signed by an individual with authority to sign

on behalf of the applicant. The signature of the individual signing the Appointment form must be notarized.

(c) Applicants must file the completed, signed, notarized Appointment form, electronically, with NMLS, for transmission to the Commissioner.

Note: Authority cited: Section 28106, Financial Code. Reference: Section 28106~~17~~, Financial Code

§2034.5. Fingerprints and Background Checks.

(a) Subject to subsection (b) of this section, all applicants must submit fingerprints through the California Department of Justice's ("Department of Justice") electronic fingerprint submission Live Scan Service ("Live Scan").

(b) Applicants must complete the Department of Justice Form "Request for Live Scan Service," and submit fingerprinting, through Live Scan, for each of the following persons, who must be listed in the applicant's Form MU1, and submit a Form MU2:

- (1) Applicant, if an individual;
- (2) The President, Chief Executive Officer, Treasurer, and Chief Financial Officer, of the applicant;
- (3) The directors of the applicant;
- (4) The managing members of the applicant, if applicant is a limited liability company;
- (5) The general and managing partners of the applicant, if applicant is a partnership;
- (6) The trustee of applicant, if applicant is a trust;

(7) Individuals owning or controlling, directly or indirectly, ten percent (10%) or more of the applicant; and

(8) Individuals responsible for the conduct of the applicant's servicing activities, such as branch managers and persons in charge of the servicing business of the applicant, at any location for which licensure is applied.

(c) The applicant must take the form to a Live Scan location to have their fingerprints taken by the operator. The applicant will be required to pay all fingerprint processing fees payable to the Live Scan operator, including the Live Scan operator's "rolling fee," if any, and fees charged by the California Department of Justice, and the Federal Bureau of Investigation. For current information about fingerprint background checks, and Live Scan locations, please visit the Attorney General's website at: <https://oag.ca.gov/fingerprints>.

(d) For each individual required to be fingerprinted, applicants must upload to NMLS, as proof of Live Scan completion, a copy of the Department of Justice Request for Live Scan Form.

(e) Individuals residing outside of California that cannot be fingerprinted electronically in California must have their fingerprints taken at a law enforcement agency in their state of residence, using fingerprint cards. These individuals should complete two fingerprint cards. The applicant should retain the second card, to be used if the first card is determined to be unreadable and rejected by the Department of Justice. Applicants must mail one fingerprint card, together with fees in the amount of \$49 (either personal check drawn on a U.S. bank, money order or certified check), payable to the "California Department of Justice," to:

California Department of ~~Business Oversight~~ Financial Protection and Innovation

~~One Sansome Street, Suite 600~~

~~San Francisco, CA 94104-4428~~

2101 Arena Blvd.

Sacramento, CA 95834

Applicants will be notified if the first card is rejected. If rejected, applicants must follow the instructions on the rejection letter, and submit the second fingerprint card. The Department of Justice does not charge an additional fee to process the second fingerprint card.

(f) No license will be issued until the Department receives a response from the Department of Justice for all persons required to submit fingerprint information under the SLSA, and the Department determines that the applicant with whom the persons fingerprinted are affiliated merits approval.

Note: Authority cited: Sections 28106, Financial Code. Reference: Sections 28106, 28110, 28111, 28112, and 28114, Financial Code.

§2036. Notices Included with Applications.

The following notices required by state and federal law are hereby provided for those completing an application for a student loan servicer license under these rules:

NOTICES REQUIRED UNDER STATE AND FEDERAL LAW

INFORMATION PRACTICES ACT OF 1977 (California Civil Code Section 1798.17)

(a) The Department of ~~Business Oversight~~ Financial Protection and Innovation of the State of California is requesting the information specified in the application for licensure of student loan servicers.

(b) The Deputy Commissioner for Administration, the Department of ~~Business Oversight~~ Financial Protection and Innovation, is responsible for the system of records and shall, upon request, inform individuals regarding the location of the Department of ~~Business Oversight~~ Financial Protection and Innovation 's records and the categories of persons who use the information in the records.

(c) The records are maintained pursuant to the Student Loan Servicing Act (Financial Code Section 28100, et seq.).

(d) The submission of all items of information is mandatory. The Department of ~~Business Oversight~~ Financial Protection and Innovation is required to collect from all applicants social security numbers under Family Code Section 17520, and social security numbers or federal taxpayer identification numbers under Business and Professions Code Section 494.5.

(e) Failure to provide all or any part of the information requested may preclude the Department of ~~Business Oversight~~ Financial Protection and Innovation from approving the application.

(f) The principal purposes within the Department of ~~Business Oversight~~ Financial Protection and Innovation for which the information is to be used are to determine whether (1) a license, registration, or other authority, as allowed under the law, should be accepted, granted, approved, denied, revoked or limited in any way; (2) business entities or individuals licensed or otherwise regulated by the Department of ~~Business~~

~~Oversight~~ Financial Protection and Innovation are conducting themselves in accordance with applicable laws; and/or (3) laws administered by the Department of ~~Business~~ ~~Oversight~~ Financial Protection and Innovation are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state or local law enforcement or regulatory agencies, as authorized by law, is appropriate.

(g) Any known or foreseeable disclosures of the information pursuant to subdivision (e) or (f) of Civil Code Section 1798.24 may include transfers to other federal, state, or local law enforcement and regulatory agencies, including NMLS as a channeling agent to, from, or on behalf of those federal, state, and local law enforcement and regulatory agencies, as authorized by law.

(h) Subject to certain exceptions or exemptions, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual that is maintained by the Department of ~~Business Oversight~~ Financial Protection and Innovation.

FEDERAL PRIVACY ACT OF 1974 (Public Law 93-579)

(i) In accordance with Section 7 of the Privacy Act of 1974 (found at 5 U.S.C. § 552a note (Disclosure of Social Security Number)), the following is information on whether the disclosure of a social security account number is voluntary or mandatory, by what statutory or other authority such number is solicited, and what uses will be made of it.

(1) The Department of ~~Business Oversight~~ Financial Protection and Innovation is required to collect from all applicants social security numbers under Family Code

Section 17520, and social security numbers or federal taxpayer identification numbers under Business and Professions Code Section 494.5.

(2) A social security account number or federal taxpayer identification number is solicited pursuant to one or more of the following authorities: these rules, and Sections 28106, 28108 and 28116 of the Financial Code; Section 17520 of the Family Code; and Section 494.5 of the Business and Professions Code.

(3) For all persons disclosing a social security account number or federal taxpayer identification number, the number is used to match the information to the names on the list provided by the Department of Child Support Services under Family Code Section 17520, and the lists of tax delinquencies provided by the State Department of Tax and Fee Administration, and the Franchise Tax Board, under Business and Professions Code Section 494.5. The social security number may be used, in addition to other information provided, to conduct a background investigation of the individual by the Department of Justice's Identification and Information Branch or by other federal, state or local law enforcement agencies, as authorized by law. The social security number may also be used to respond to requests for this number made by child support agencies.

NOTICE REGARDING TAXPAYER INFORMATION

(j) The State Department of Tax and Fee Administration, and the Franchise Tax Board, are authorized to share taxpayer information with the Department of ~~Business Oversight~~ Financial Protection and Innovation. In the event the state tax obligation is not paid by a licensee, the Department of ~~Business Oversight~~ Financial Protection and Innovation may be required to suspend the license.

Note: Authority cited: Section 28106, Financial Code. Reference: Section 28106, Financial Code.

§2037.5. Challenge Process for Information Entered into NMLS.

(a) If an applicant or licensee disputes the accuracy or completeness of any material information entered into and maintained by NMLS, the applicant or licensee may submit a written request to the Commissioner to the attention of the Manager, Student Loan Servicing Program, Department of ~~Business Oversight~~ Financial Protection and Innovation.

(b) The request shall include the applicant or licensee's name, unique identifier, a statement of the alleged inaccuracy or incompleteness of the information entered into NMLS, and its materiality, and shall provide any proof or corroboration available, including copies of official documents or court orders that support the changes requested by the applicant.

(c) Upon receipt of the request, the Commissioner shall investigate the request, along with any information provided, and determine if the information entered into NMLS is correctly reflected.

(d) If the Commissioner determines that the information is materially incorrect, the Commissioner shall request that the NMLS record be corrected.

(e) If the Commissioner denies the allegations of material inaccuracy or incompleteness in the NMLS record, the Commissioner shall notify the licensee or applicant in writing.

(f) Within 30 days from the mailing or service of the notification, the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code) for a determination of whether material inaccuracy or incompleteness exists in the record.

(g) If a material inaccuracy or incompleteness is found in any record, within 30 days of notice of the finding, the Commissioner shall request that NMLS correct the information.

(h) Judicial review of the decision shall be governed by Section 11523 of the Government Code.

Note: Authority cited: Sections 28106, Financial Code. Reference: Section 28110, Financial Code.

Article 3. Surety Bond

§2039. Surety Bond.

(a) All surety bonds, amendments, cancellations, notices of claims, and information related to surety bonds, shall be filed with, and processed through, NMLS.

(b) The surety bond shall be in the form of the “electronic surety bond form,” titled “SURETY BOND, STUDENT LOAN SERVICING ACT LICENSEE BOND (California Financial Code Section 28100, et seq.), ESB Form Version 43 Effective 01/01/2018, NMLS Version: Effective December 29, 2020 CA-DBO-01/01/2018, incorporated herein by reference.

(c) (1) Every licensee shall post and maintain a surety bond, in accordance with Section 28142 of the Code, in the minimum amount of \$25,000.

(2) A licensee will be required to post a surety bond in an amount greater than \$25,000, if the dollar amount of student loans serviced by the licensee in the preceding calendar year exceeds \$50,000,000. The specific amount of the required bond is as follows:

Aggregate Loans	Bond Amount
0 - \$50,000,000	\$ 25,000
\$50,000,001 - \$100,000,000	\$ 50,000
\$100,000,001 - \$250,000,000	\$ 75,000
Over \$250,000,000	\$ 100,000

(d) The surety bond shall not be cancelled, in whole or in part, without at least 30 days notice to the Commissioner by the surety, bonding, or insurance company.

(e) The surety bond shall also provide that the surety, bonding, or insurance company issuing the bond provide notice to the Commissioner within 10 days of service of any action against the bond, and, immediately, upon payment of any claims.

Note: Authority cited: Section 28106, Financial Code. Reference: Sections 28110 and 28142, Financial Code.

Article 5. Borrower Protections

§2040.5. Qualified Written Requests.

(a) A servicer is only required to send an acknowledgment of receipt of a “Qualified Written Request,” within ~~five~~ ten business days of receipt, if the action requested

by the borrower has not been taken within ~~five~~ ten business days of receipt of the Qualified Written Request.

- (b) Servicers may designate a specific electronic address to which Qualified Written Requests must be sent. Servicers may also designate a specific physical address to which Qualified Written Requests must be sent. A servicer that designates a specific address or addresses for receipt of Qualified Written Requests must post the designated address(es) on the servicer's website.
- (c) A servicer is only required to send a borrower a total of three notices stating that there will be no response to a "Qualified Written Request," because the borrower has previously submitted the same request, received a response, and provided no new information in its subsequent, duplicative Qualified Written Request.

Note: Authority cited: Section 28106, Financial Code. Reference: Section 1788.102, Civil Code, and Section ~~28130 and 28132~~, Financial Code.