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STUDENT LOAN SERVICING ALLIANCE

Testimony of Winfield P. Crigler, Executive Director, SLSA
Before the Washington Department of Financial Institutions
Concerning Proposed Rules Implementing SB 6029, c 62, Laws of 2018

I wish to thank the Department of Financial Institutions (DFI) for permitting me to submit written testimony at today's hearing given that I am unable to be there in person. My name is Winfield Crigler and I am the Executive Director of the Student Loan Servicing Alliance (SLSA). SLSA is a non-profit, membership organization consisting of student loan servicers in the two principal federal education loan programs: the Federal Direct Loan Program ("FDLP") and the Federal Family Education Loan Program ("FFELP"), as well as private education loan servicers. Our approximately 25 servicer members work diligently to provide the full range of servicing operations for student loans, including conversion from in-school status to repayment, payment processing, collections, claims processing, and customer service. Together, SLSA members service approximately 95 percent of all outstanding student loans in the United States. So the regulations under consideration by the department directly affect my members.

SLSA primarily focuses on the operational and technical issues that impact customer service and program administration. We develop industry positions and promote best practices, which help our members provide a high level of quality customer service. We also work with other organizations to support the continuing enhancement and streamlining of student loan programs to improve efficiency, reduce complexity, and promote both a better customer experience and the successful repayment of a customer's student loans. It is in that context that I testify today, acknowledging that all of the key stakeholders -- regulators, legislators, servicers, and, most importantly, student loan borrowers -- benefit from a cohesive regulatory scheme focused upon practices most likely to reduce borrower confusion and promote borrower success.

SLSA submitted two sets of comments on the recently published proposed regulations to implement SB 6029, c 62, Laws of 2018, relating to establishing a student loan bill of rights (the "Act"). The first set of comments focused on our position that federal law preempts provisions of the Washington statute and these proposed regulations, and the second set of comments raised more general questions and concerns about the proposed regulations.

There are more than $1.5 trillion in outstanding student loans today. Less than 8% of these loans (approximately $118 billion) are private loans. The vast majority (over $1.4 trillion) are federal student loans, And the vast majority of federal loans (over $1.1 trillions) are actually owned by the U.S. Department of Education. So this testimony will focus on the largest part of student loans. Federal student loan servicers help borrowers navigate all of the myriad repayment choices available to them and work tirelessly to ensure that borrowers do not become delinquent or go into default.

SLSA members have several concerns with the proposed regulations, all of which are laid out in more detail in our comments dated August 7 and August 20, 2018. Our testimony will focus on the most significant of these concerns, but we hope that the department will review our comments which provide greater detail.

Preemption: SLSA has raised preemption issues, including express, conflict, and field preemption. In particular we have pointed to many instances in which the proposed regulations contain disclosures that we believe are expressly preempted by 20 U.S.C. 1098g, which provides that "[l]oans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law." SLSA has filed a lawsuit in the federal District Court of the District of Columbia to challenge the District's attempt to license and regulate student loan servicers, the results of which may also help to clarify these issues in Washington state.

Annual Assessment: The largest portfolio of student loans by far are those that are owned by the U.S. Department of Education. All of these loans are serviced by 9 contractors to the Department of Education. These servicers are paid for their work in accordance with a per borrower fee based on a fixed price schedule according to the status of the loans. Given that the revenues for federal loan servicers under contract to the Department of Education are fixed pursuant to the contract terms, and that servicer margins under the contract are very narrow, the annual assessment proposed by the department will severely curtail any profits to the servicers, and may force some servicers to reduce delinquency and default prevention outreach, investment in innovation, and in severe cases, may impact customer service levels. Because of the expense and burden of the licensing process, combined with the annual assessment and onerous capital requirements, small servicers not under contract to the Department of Education with only a few borrowers in Washington may refuse to service loans for Washington State residents and transfer existing loans to larger servicers.

Effective Date of the Regulations: It is our understanding that the effective date of the student loan servicer licensing and regulatory requirements is the earlier of January 1, 2019 or the adoption of final regulations. As currently written, the proposed regulations contain requirements that will require servicers to change certain practices, to adopt new practices, and to put in place systems to capture certain information in order to be able to report information to Washington State. These changes cannot be finalized until we have final regulations. Therefore, it is critical that we have enough time to create the systems and procedures to put these changes into effect after the adoption of the final regulations. We would urge the DFI not to begin examinations or enforcement or reporting pursuant to the final regulations until January 1, 2019 at the earliest.

We have submitted other important comments that we hope the department will take into consideration, but time and space prohibit us from raising them here. Again, we thank the department for allowing us to submit written testimony today.