



SLSA Written Testimony on Colorado HB18-1415
before the House Business Affairs and Labor Committee
April 26, 2018

Thank you, Chair Kraft-Tharp, and members of the Committee, for allowing me to submit written testimony today. I am Winfield Crigler, Executive Director of the Student Loan Servicing Alliance (SLSA). SLSA is a non-profit trade association in Washington DC that focuses exclusively on student loan servicing issues. My 20+ servicer members are responsible for servicing over 95% of all federal student loans, and the vast majority of private loans as well. One of my members, Nelnet, has a significant Colorado presence, with over 500 employees in the state.

Some very brief background on the student loan programs – There is currently over \$1.4 trillion in total outstanding student loans – and over \$1.3 trillion of that is federal loans. In other words, Federal loans make up over 92% of all student loans. To break down the federal number a bit more, over \$1.1 trillion of all federal loans is owned by the United States Department of Education (“the Department”) and is currently serviced by nine contractors to the Department, all of whom are SLSA members. These nine contractors include a state agency, six not-for-profit agencies (small, mid-size, and one large), and two for-profit companies. Most of these loans are Direct Loans, made by the Department of Education using funds from the U.S. Treasury. Approximately \$200 billion are loans in the FFELP Program (which are loans made by banks and guaranteed by the federal government), which has been winding down since 2010. These loans are serviced by the 20 SLSA members. A little over \$100 billion (less than 8%) are private loans, made by banks and other private lenders, with no federal backing. Most of these are also serviced by SLSA members.

SLSA opposes HB18-1415. While well-intentioned, this bill does nothing to address the issue of student loan debt that so many state legislators are concerned about. We agree that something needs to be done, but the issue of student loan debt must be solved **before** the student borrows money for school. Moreover, one of the best actions we can take after students borrow is to ensure that they complete their degree. Borrowers who do not complete are three times as likely to default and generally on balances that are not very high. President Obama’s Council of Economic Advisors released a Report in 2016 on student debt that is a must read for any policymaker interested in making a difference. They found that two thirds of those who defaulted within three years of entering repayment in 2011 had balances less than \$10,000. Over one-third had balances less than \$5,000. These are borrowers who dropped out from school and dropped out from servicing.

Servicers only come into the picture after the borrower has chosen a school, and already borrowed the money to attend. The federal servicers are contractors, hired by the U.S. Department of Education and already subject to a myriad of requirements, including the federal Higher Education Act statute, almost 300 pages of regulation, and thousands of contract requirements. The challenge is not insufficient regulation—the challenge is working together to help borrowers complete their education and, even if they don't, reaching out to their servicer to access the assistance they need. Several servicers have found that over 90% of those who default have never responded to the servicers' extensive outreach campaigns.

CFPB complaints about student loans are overstated. The Consumer Financial Protection Bureau (CFPB) maintains a consumer complaint portal where it encourages consumers to file complaints about financial products. Of note, the CFPB does not verify the complaints it receives. The Bureau began collecting complaints about student loans in its database in March of 2012. Over the last 6+ years, Colorado residents have filed a total of 781 student loan complaints. Student loan complaints constitute less than 5% of all CFPB complaints by Colorado residents – there are far more complaints about mortgages, credit cards, debt collection, credit reporting, and bank accounts and services. Of the complaints filed regarding student loans, over 87% were resolved with an explanation – meaning the borrower was given a better understanding of the terms of their loan program. Only about 11% of the complaints required some form of relief for the borrower, either monetary or non-monetary. Some of the most common complaints deal with the loan's interest rate (which is set by law for federal loans), or requests for a servicer to issue a courtesy retraction of accurate delinquency credit reporting (which is not permitted by federal law).

One thing that we can all agree on is that student loans are complicated, and it can be difficult for borrowers to grasp the intricacies of their student loan repayment obligation. While SLSA members would like to have no complaints and work hard to improve their processes in order to reduce complaints, our members are proud that in Colorado, which has over 718,000 federal loan borrowers with more than \$23.8 billion in outstanding federally-owned student loans, there were only 87 actionable complaints in more than six years - a statistic to be proud of. And a complaint rate of 0.01% (one one-hundredth of one percent) per Colorado borrower would seem to indicate that there may not be a need to license and regulate student loan servicers.

Federal Loans are already extensively regulated. Federal student loans are already subject to extensive federal statutory, regulatory and contractual servicing requirements. Student loans are very complex already and SLSA is concerned that imposing multiple state licensing and regulatory requirements will create a patchwork of conflicting rules that will cause more borrower confusion in an already complicated program. In addition, the servicing of federal student loans is in the midst of a truly momentous sea change, initiated in 2016 and continuing today. The Department of Education is currently reviewing the future of servicing and how to improve the student loan process and systems. For states to pass laws and regulations in advance of knowing what changes may occur on the federal level may harm both borrowers and the taxpayers who fund the federal loan program.

The current servicing contracts expire in June 2019. Federal Student Aid (FSA) has issued a solicitation for Phase I of the “NextGen Financial Services Environment” that FSA is building. According to the solicitation, FSA intends to:

- provide a world-class customer experience
- improve its operational flexibility
- drive greater operational efficiency and reduce complexity
- measure its success on how well NextGen improves customer outcomes and facilitates compliance with Federal consumer protection standards.

In lieu of the nine servicers employed by the Department today, using four different servicing platforms, and each of which with its own branding, FSA contemplates a single servicing platform with uniform Federal Student Aid branding. While there may be more than one contractor accessing the FSA platform, from the borrowers’ perspective, they are simply interacting with Federal Student Aid. FSA intends to have this new environment in place by the time the current servicing contracts expire in mid-2019. Legislators proposing to license student loan servicers need to understand that the vast majority of loans are about to be serviced in ways that will make much of the proposed licensing regime unnecessary and unworkable.

Most federal loan borrowers are successfully repaying their student loans. Recent statistics from the Department of Education show that the serious delinquency rate for federal loans has dropped by 24% over the last three years, and now stands at approximately 12% of borrowers and 10% of all loan volume. In addition, new direct loan defaults have decreased as a percentage of borrowers in repayment for the 5th consecutive quarter. At the end of 2016, only 1.5% of borrowers who were in repayment the prior quarter defaulted. Although the media often reports statistics about the growing number of borrowers in default, these numbers rarely consider that the Department of Education almost never writes off a defaulted loan, so a number of the ‘defaults’ are considerably aged.

The current Department of Education compensation structure encourages servicers to do the right thing. The Department’s servicers are paid on a sliding scale depending on the status of the borrower’s loans, and have significant incentives to keep borrowers in good standing. A servicer can earn up to \$2.85 per month per borrower that is current under his repayment plan, but their compensation decreases dramatically when a borrower becomes delinquent -- the monthly fee for a severely delinquent borrower is only 45 cents -- not even enough to cover the cost of mailing a letter. Unlike in mortgage servicing, there are no additional fees that the servicers can charge a delinquent borrower, so there is no incentive to push a borrower into delinquency and default, and indeed, the incentive is to avoid those situations. In addition, to get new loan volume under their servicing agreements with the Department, servicers are ranked on performance -- 60% of their ranking is determined by the servicer’s ability to keep borrowers current and out of delinquency.

Private loans have very low delinquency and default rates. As indicated above, the private loan market is much smaller than the federal loan program, and very different in that loans are only made to credit-worthy individuals. The delinquency and default rates for these loans have returned to their pre-

recession low levels. MeasureOne publishes a semi-annual report on the private loan market, based on data covering approximately 2/3 of the private loan market. Their latest report indicates that the late stage delinquency (more than 90 days delinquent) rate for private loans has stabilized at 1.59%, and the annualized charge-off (default) rate is only 2.04% of loans in repayment. These rates compare well with any other program – not only federal student loans, but also credit cards (7.5% seriously delinquent), auto loans (4.1% seriously delinquent), and mortgages (1.3% seriously delinquent). Private loans are also subject to numerous federal consumer protection laws, including the Truth-in-Lending Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act, the Electronic Funds Transfer Act, as well as the supervisory authority of the Consumer Financial Protection Bureau.

Small servicers will be harmed. I am also concerned about the effect of this legislation on my smaller members. More than half of SLSA servicers are non-profit, state-based agencies created by state legislatures to make loans to residents in their states. Most of these organizations have between 50 and 200 total employees, and may have as few as a hundred borrowers living in Colorado. The expense of these proposed licensing regimes, with audits, examinations, and annual licensing fees, may cause some of them to decide to stop servicing, or at least to transfer all of their Colorado loans to another servicer. These are not empty threats. Two of the Direct Loan servicers dropped out of their contract with the US Department of Education, because the contract was uneconomical. Two more of my members have recently notified me that they are no longer planning to service their own FFELP and private loans because of the growing costs. And at least one servicer has transferred all of its Connecticut loans to another servicer. Adding the costs of licensure to private student loans will mean that those costs are passed onto consumers, which means less consumer choice and higher interest rates for Colorado borrowers.

Could the federal student loan program be improved? Yes, it is far too complex, and SLSA is working hard to ensure that the next reauthorization of the Higher Education Act changes that, for example, by simplifying the number of repayment programs, and by allowing automatic renewal for borrowers in income driven repayment plans. The program must also manage borrowing by providing better counseling for students **before** they borrow. But solutions to the issue of student loan debt are inherently federal, because it is almost entirely a federal program. SLSA believes that licensing and regulation by the states will only add to the current complexity and borrower confusion, and will take scarce resources away from customer service.

Thank you again for your time and consideration. SLSA members and I are available and willing to meet with members to further discuss student loan servicing and how we can all work together to make the system better.