

August 10, 2020

Oscar B. Fears, III
Deputy Commissioner for Legal Affairs
Department of Banking and Finance
2990 Brandywine Road, Suite 200
Atlanta, GA 30341-5565

Re: July 17, 2020, Proposed Rulemaking

Dear Commissioner Fears:

On behalf of the American Financial Services Association (AFSA)¹ thank you for the opportunity to comment on the Department's July 17 proposed rulemaking implementing the Georgia Installment Loan Act. We fully support the transfer of regulation of installment loans from the Office of the Insurance Commissioner to the Department of Banking and Finance under Senate Bill 462 /Act 409, and we look forward to future opportunities to engage with your department.

We welcome the policy changes, as the provisions of the new law and proposed regulations that provide flexibility on branch licensing and allow licensees to originate or close installment loans remotely will give licensees the ability to adapt business operations in order to meet the needs of their customers, particularly during the current crisis. We appreciate and support these provisions, but we believe clearer guidance regarding the ability of employees to work remotely will ensure that installment lenders can take full advantage of the flexibility the rules provide. As an example of where we believe additional clarity is necessary, the proposed rules lay out specific conditions under which a location, including a personal residence, would be considered a branch location; however, the rules do not make clear whether loan operations at locations that *do not* fulfill the requirements would be excluded from the licensure requirements.

Previously, the Office of the Insurance Commissioner released guidance explicitly authorizing installment lending licensees to work from home, as long as they abide by data security and recordkeeping requirements. With this guidance, AFSA members were able to serve their customers safely and effectively despite the numerous challenges posed by the coronavirus pandemic. It will continue to be in the best interest of consumers and employees to continue remote work well beyond the initial phases of reopening, therefore we respectfully request amendments to the rules explicitly authorizing employees of installment lender licensees to work from home if their personal residences do not meet the conditions for a branch location.

The Benefits of Remote Work

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA's 350+ member companies provide consumers with many types of credit, including traditional installment loans, direct and indirect vehicle financing, mortgages, leases and payment cards. They serve the entire credit spectrum, from non-prime to super-prime consumers.

AFSA members remain committed to safeguarding employees and customers, mitigating risks to the continuity of operations, and ensuring credit remains available to consumers who need it, and this must continue to be accomplished through remote work. Technology advancements have made working remotely more effective than ever and mostly indistinguishable from on-site operations. For instance, loans may be closed remotely with electronic signatures and employees have secure remote access to company systems through virtual private networks (VPNs). Prior to the pandemic, many of our members had already implemented the ability to use these technologies and then increased their capabilities to safely continue operations during the pandemic-related state of emergency. For many members, adopting these new technologies has been a costly and time-consuming endeavor, but customers have greatly appreciated both the convenience and health benefits of remote operations. Our members are prepared and desire to continue work from home strategies to optimize future operations.

Remote work is the best way to maintain continuity of operations for customers and ensure the safety of employees and customers.² With states reopening at different paces, financial institutions face differing state and local laws affecting in-person interactions, which may mean significant differences in operational guidelines between locations. Moreover, companies are taking steps to implement facility changes necessary to create workspaces that meet new health guidelines to allow for increased spacing between employees. Not only do these changes take time to implement, but they also include key recommendations for limiting in-person operations, with telework available where feasible. Most importantly, remote work allows businesses to make critical safety accommodations for employees who may be higher-risk or those who care for higher-risk individuals.

Protection of sensitive information remains a priority for our members, and the pandemic provided an opportunity for financial institutions to successfully test the use of technology to ensure data protection and transition to remote work. In that time, licensees have demonstrated—out of necessity—that nearly all critical operational functions can take place through teleworking, and it is of critical importance that they be able to do so.

Employees working from home are not setting up a separate place of business. These employees are not meeting customers in their homes. They are not keeping records in their homes. They are performing the same telephone/internet-based functions they would have performed if they were sitting in the licensed location. Importantly, employees are supervised as they would be at the licensed location, and the licensee's records are not kept at the remote location. Allowing employees to perform telephone/internet-based functions from home merely allows a licensee to be more flexible in its employment practices, while still providing the same secure services to the public.

We believe that employees should be allowed to continue to telework through a licensed

² AFSA also notes that some of our members' business models are built around face-to-face interactions, and we appreciate the flexibility of the Department in allowing both remote work and in-person branch work, as appropriate for both the type of interaction and the licensee's business model.

location of the financial institution without being physically present at that location and believe explicit authorization in the proposed rules would benefit consumers and employees of installment lenders alike. These employees should be permitted to conduct operational and licensable activities—including loan servicing, credit decisioning, funding and collections—that can be safely accomplished by teleworking, provided that the licensee takes the necessary steps to ensure the alternate location does not meet any requirements that would trigger branch licensure.

Thank you again for your attention to this matter. If you have any questions about how AFSA can be of any further assistance to you as you move forward, please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.

Sincerely,



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cc: Justin McElheney, Director for Non-Depository Financial Institutions
Rod Carnes, Deputy Commissioner of Non-Depository Financial Institutions