

September 16, 2020

Mary Young
Deputy Commissioner
Nevada Financial Institutions Division
300 W. Sahara Avenue
Suite 250
Las Vegas, NV 89102

Re: Proposed Regulations Pertaining to Senate Bill 201(S.B.201)-Revises Provision Governing Loans-NRS 604A Database

Dear Ms. Young:

On behalf of the American Financial Services Association (AFSA),¹ thank you for the opportunity to comment on the Division's proposed regulations pertaining to Senate Bill 201. While we understand these rules implement the legislation's requirements, we continue to have grave concerns about the expansion of lending databases to include data on traditional installment loans. Far from enhancing consumer protections in the state, these expansive requirements will only needlessly increase the compliance burden on Nevada's traditional installment lenders, affecting their ability to offer safe and affordable loans to borrowers who rely on them. This will decrease opportunities for financial mobility for individuals and families in Nevada who now face higher costs for credit in the state.

The database requirements do not reflect the significant differences between the state's traditional installment lenders and its deferred deposit and title lenders. Traditional installment loans (TILs) are widely recognized by consumer groups and others as a safe and affordable alternative to deferred deposit and title loans. This has been demonstrated most recently by the willingness of the federal Consumer Financial Protection Bureau (CFPB) to exclude TILs from the provisions of their Payday Rule. This appreciation for TILs as tools of financial capability and even mobility, hinges on the fact that unlike deferred deposit or title loans, TILs do not rely for repayment on a single payment on a certain due date, and instead are repaid in regularly scheduled, equal payments of principal and interest, after an underwriting process that includes a calculation of the borrower's ability to repay a loan out of their monthly budget. Importantly, unlike deferred deposit or title loans, TIL performance is reported directly to credit bureaus and are a vital tool for borrowers looking to build a credit history and become more financially mobile. This key distinction makes the database reporting requirements duplicative and unnecessary for TILs.

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 members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

Although the database comes with no additional consumer protection, it does come with additional new costs for consumers. On top of the mandated additional fees levied to maintain the database and directly passed on to consumers, the requirement that lenders submit detailed information never before sought by Nevada regulators for compilation in a database will create a costly compliance burden. The additional compliance burden for Nevada lenders would involve establishing the means for collection and submission of complex information in every lender's office in the state and may necessarily mean higher credit costs for all borrowers in the state.

The establishment of a database also raises important security concerns at a time when criminal elements show a relentless appetite for personal financial data. Lending databases contain sensitive information about lenders and their current and prospective borrowers, including social security numbers. This type of data is of significant value to criminals who would seek access to it. Without adequate oversight of the database providers themselves, there is no way to be sure that the information is held securely and in keeping with data security best practices.

Because of the significant differences between traditional installment loans and deferred deposit and title loans, we believe the best way for the state code to distinguish between them is a separate section of law with requirements that better reflect the characteristics unique to traditional installment lenders and the safe, affordable credit they offer to borrowers.

Thank you for your consideration of our comments. If you have any questions or if AFSA can be of any further assistance to you as you move forward, please do not hesitate to contact me at 202-469-3181 or mkownacki@afsamail.org.

Sincerely,



Matthew Kownacki
Director, State Research and Policy
American Financial Services Association
919 18th Street NW, Suite 300
Washington, DC 20006