

June 20, 2022

The Honorable Susan Eggman  
California State Senate  
1021 N. Street  
Sacramento, CA 95814

**Re: Senate Bill 1311**

Dear Senator Eggman:

I write on behalf of the American Financial Services Association (AFSA)<sup>1</sup> to register our serious concerns with Senate Bill 1311, which would, among other provisions, void the security interest in a vehicle financed by a covered service member if the contract also funds credit insurance or a credit-related ancillary product.

As we have outlined in previous joint comments to the legislature, the immediate practical effect of this legislation will be to cut off service members' access to products that give them the ability to protect themselves from potential large and unexpected financial liability related to their motor vehicle financing commitment. Additionally, this will create massive turmoil in the marketplace among companies that provide, retail, and finance these products.

Though the proposed legislation may be intended to provide additional protections to California's service members, it will instead have serious adverse consequences for their access to credit and related protection products. We are sympathetic to the legislation's intention, but the bill would upend the existing regulatory structure established by Congress in the Military Lending Act (MLA) in 2006 and would be a significant disruption to the state's credit markets. While the bill purports to close a loophole of sorts that would allow service members to waive their protections under the MLA with the purchase of certain products, including a guaranteed asset protection (GAP) waiver, no such provision exists under the MLA.

We appreciate your willingness to consider alternative solutions, but such solutions must reflect the fact that the MLA does not apply to a vehicle finance contract, irrespective of its GAP coverage, thus there is no accompanying right for a consumer to waive. As currently drafted, Section 5 of SB 1311 does not reflect this fact and is entirely inconsistent with the federal law it purports to apply. Since its inception in 2006, the MLA has not applied to secured loans, including vehicle loans and mortgages. In fact, the Consumer Financial Protection Bureau (CFPB)—a federal agency tasked with enforcement of the law's protections—makes this point clear on its own website:

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<sup>1</sup> 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.

There are some loans the MLA doesn't cover – namely, credit that is secured by the property being purchased. These loans include:

- Residential mortgages (financing to buy or build a home that is secured by the home), mortgage refinances, home equity loans or lines of credit, or reverse mortgages;
- A loan to buy a motor vehicle when the credit is secured by the motor vehicle you are buying; and
- A loan to buy personal property when the credit is secured by the property you're buying, like a vehicle or home appliance.<sup>2</sup>

The MLA was never intended to apply to secured loans, including vehicle financing, and no purchase of a credit insurance or protection product would change that.

We understand that the Legislature may have some concerns about consumer outcomes related to the purchase of GAP waivers, however, SB 1311 would not provide new protections and would instead merely cut off access to an optional product for a specific subset of consumers.

It is our understanding that the Legislature intends to move forward with AB 2311, which would make substantial changes to the regulatory environment for GAP waivers in the state. Because these major changes would be applicable to all consumers, rather than just service members, we believe the protections proposed in AB 2311 may more directly address your concerns regarding GAP waivers for service members.

Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 202-469-3181 or [mkownacki@afsamail.org](mailto:mkownacki@afsamail.org) at your convenience. Conversely, you could also contact Scott Govenar at (916) 807-4407 or [sgovenar@govadv.com](mailto:sgovenar@govadv.com).

Sincerely,



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American Financial Services Association  
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Cc: Honorable Members: Assembly Judiciary Committee  
Honorable Members: Assembly Veterans Affairs Committee

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<sup>2</sup> Consumer Financial Protection Bureau, *What types of loans are covered under the Military Lending Act?*, available at <https://www.consumerfinance.gov/ask-cfpb/what-types-of-loans-are-covered-under-the-military-lending-act-en-1785/>.