Testimony of Matt Kownacki Regarding B24 0558
September 22, 2022

Good afternoon and thank you for the opportunity to testify today. My name is Matt Kownacki. I am the Director of State Research and Policy at the American Financial Services Association. Our members provide District consumers with credit cards, vehicle loans and leases, and mortgages, among other types of credit, and include national banks and sales finance companies. We share the Council's concerns about discriminatory outcomes and our members are committed to equality in lending and utilizing technology to increase access to financial products and services.

Financial institutions are heavily regulated at the federal, state and local levels, and the financial services industry has faced unique scrutiny and regulation over issues of discrimination. For this reason, for decades, our industry, more than any other, has spent time, resources, and community capital to combat discriminatory practices. While automating a process does not by itself guarantee elimination of discrimination, it does limit the impact of any individual source of unfair bias. In fact, many of the technological tools that would be affected by this bill, have been crucial to reaching these goals. For example, automating credit underwriting and other processes decreases the likelihood of individual bias that could exist from face-to-face interactions and lowers the costs of credit availability, which significantly expands access to credit for the District's consumers.

Importantly, these tools were developed and implemented in full compliance with existing laws. The Equal Credit Opportunity Act already prohibits discrimination in credit transactions; the Gramm-Leach-Bliley Act protects the privacy of consumer financial information; the Fair Credit Reporting Act ensures the accuracy of credit reporting; and all of these laws make credit transactions more transparent. Because these protections already apply to the use of algorithms and automation in credit transactions,

919 18th Street NW, Washington, DC, 20006 ▲ 202.296.5544 ▲ www.afsaonline.org ▲ @AFSA_DC

the proposed legislation would not provide any new material benefit or improved consumer protections. Instead, the cumbersome and impossible to implement provisions would result in excessive and ineffectual compliance costs that would make credit more expensive and less accessible for all District borrowers.

In areas where the bill does not overlap with existing financial consumer protection laws, like those I just outlined, the legislation may, in fact, be inconsistent or at odds with other existing laws and even the District's own regulatory guidance for financial institutions. This is particularly concerning with regards to federally insured mortgages and those sold to GSEs—government sponsored enterprises like Fannie Mae or Freddie Mac—on the secondary market. Many of these products rely on automated processes over which financial institutions have no control and thus no ability to audit or meet the bill's other transparency requirements.

For example, the Federal Housing Administration identifies its own TOTAL mortgage scorecard process as: "a statistically derived algorithm developed by HUD to evaluate borrower credit history and application information."[1] This algorithm was developed and is maintained by a federal agency, but any financial institution participating in HUD programs could not comply with the legislation due to the inability to force FHA to comply with the legislation, as required of Service Providers. If the law cannot be complied with, District consumers could lose access to numerous federal programs aimed at increasing mortgage affordability, with the greatest impact on those consumers with lower credit scores or income who rely on those programs most.

[1] U.S. Department of Housing and Urban Development, *FHA TOTAL Scorecard*, at https://www.hud.gov/program_offices/housing/sfh/total.

The additional compliance burden would extend beyond credit underwriting, affecting every process where a financial institution uses algorithms or automation to benefit its customers. Many financial institutions, among other benefits, automate routine customer interactions and triage customer calls to ensure consumers receive the assistance they need. As customer interactions move online and to mobile platforms, companies are using these tools to better connect with customers and make digital tools more accessible. Chatbots, for example, allow people unfamiliar with technology to interact digitally.

Even more crucial to consumers and financial institutions alike is fraud prevention. Fraudulent transactions annually amount to billions of dollars, making the need for fraud prevention services greater than ever. AI models that provide insights into global fraudulent authentication patterns make this process more efficient and effective and have proven to be extremely valuable in identifying fraud and stopping it before it hits a consumer's account, keeping costs down for all consumers. At a time when fraud operations are becoming increasingly sophisticated, diverting these critical resources away from fraud prevention and toward compliance with this legislation will not benefit consumers.

We welcome the opportunity to discuss these issues and others we did not have time to address today with the Council. Thank you for your consideration of my testimony.