

February 9, 2024

Senator Michael Gianaris
New York State Senate
Capitol Building, Room 427
Albany, NY 12247

Re: NY SB 7783 – Establishes the New York Junk Fee Prevention Act

Dear Senator Gianaris:

On behalf of the American Financial Services Association (“AFSA”),¹ thank you for the opportunity to provide comments on Senate Bill 7783, which would establish the New York Junk Fee Prevention Act. AFSA shares the goal of protecting consumers from practices that would undermine their ability to make informed decisions and has long been committed to ensuring consumer access to accurate information about financial service products.

Nevertheless, we have significant concerns with the proposed regulations due to the broad scope and vague language that leaves the potential impact on financial services unclear. We believe there is a risk that the bill’s broad provisions will affect the legitimate practices of our members, without providing any benefit to consumers which rely on our products. We also believe that the bill would significantly increase the compliance burden on AFSA members, increasing the costs of doing business and ultimately raising the threshold for consumers to qualify for our members’ loans. This would have a negative effect on the financial capability and prospects for financial mobility for many New Yorkers who do not have access to bank credit, with a commensurate effect on communities and the state economy.

We believe this additional burden to be unnecessary. Financial institutions are already highly regulated under competing federal and state laws and regulations. They contend with extensive industry-specific regulatory regimes in all 50 states, including New York. On the federal side, they comply with several rules and statutes prohibiting misrepresentation of the nature and purpose of any amount a consumer may pay, including: the Business Opportunity Rule, the Mortgage Acts and Practices Advertising Rule (Regulation N), the Mortgage Assistance Relief Services Rule (Regulation O), the proposed amendments to the Negative Option Rule, the Telemarketing Sales Rule, the TILA, and the TISA. Financial institutions operate in a heavily regulated market sector where additional disclosure requirements risk contradicting the existing regulatory requirements.

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.

We note that the Biden administration is currently studying this issue and an announcement on so-called junk fees is expected in this year's State of the Union speech. In an associated development, the Federal Trade Commission recently announced a notice of proposed rulemaking on this very issue and has invited public comment. We believe it would be prudent to allow this process to develop before issuing state regulations that may ultimately prove duplicative or contradictory.

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 us.

Sincerely,

A handwritten signature in black ink that reads "Elora Rayhan". The signature is fluid and cursive, with the first name "Elora" written in a larger, more prominent script than the last name "Rayhan".

Elora Rayhan
State Government Affairs Analyst
American Financial Services Association
1750 H Street, NW, Suite 650
Washington, DC 20006-5517
(805) 501-8873
erayhan@afsamail.org