

March 26, 2024

The Honorable James. B. Eldridge
Joint Committee on Financial Services
24 Beacon St.
Room 254
Boston, MA 02133

Re: Massachusetts S 2638 – Debt Collection

Senator Eldridge and Members of the Committee:

I write on behalf of the American Financial Services Association (AFSA)¹ to express our concerns with Senate Bill 2638, which would make significant modifications to the debt collection procedures in Massachusetts and potentially harm our members, especially relating to consumer credit lines.

S 2638 aims to introduce additional limitations on banks and other entities involved in debt collection from Massachusetts residents. It also proposes individual modifications to existing contracts, including those related to consumer credit agreements statewide. Notably, similar legislation was previously deliberated and approved by the Senate in 2016, although it did not progress further in the House. We maintain apprehensions that certain provisions in the current legislation under consideration may still significantly hinder access to consumer credit.

Under the amended bill, the timeframe for the statute of limitations on all consumer loans, including unsecured credit lines, is reduced from six to five years. Any partial payment towards a defaulted consumer loan does not reset the limitation period unless it fully resolves the default and clears any outstanding arrears. Consequently, a consumer credit consolidation that fails to fully resolve the default may be annulled under Section 3(e) of the revised Chapter 93L. While this provision aims to assist consumers, it may dissuade lenders from offering unsecured consumer credit to certain borrowers, as anything short of a complete loan payoff following a default could prevent them from pursuing the debt after five years.

Additionally, we maintain concerns regarding Section 5(d). By awarding attorney fees to consumers, the Commonwealth may unintentionally discourage them from entering into repayment agreements, potentially resulting in a default judgment, which goes against public policy and the intended consumer protection. While acknowledging the sponsors' intent to safeguard consumers from unfair debt collection practices, we assert that S 2638 poses unintended repercussions on the consumer credit lending market in Massachusetts.

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 urge you to consider the effects these restrictions will have on Massachusetts residents and not move forward with the legislation as drafted. Thank you 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 (805) 501-8873 or erayhan@afsamail.org.

Sincerely,

A handwritten signature in cursive script that reads "Elora Rayhan".

Elora Rayhan
State Government Affairs Analyst
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Washington, DC 20006-5517

cc:

The Honorable Michael J. Barrett
The Honorable Vanna Howard
The Honorable DiDomenico