

The Honorable Lyman Hoffman
The Honorable Donald Olson
The Honorable Bert Stedman
The Honorable Click Bishop
The Honorable Kelly Merrick
The Honorable Jesse Kiehl
The Honorable David Wilson
Alaska Senate
Alaska State Capitol
120 4th Street Rm 3
Juneau, AK 99801-1182

May 10, 2024

Re: Senate Bill 264 relating to loans in an amount of \$25,000 or less *et al.*

Dear Senate Finance Committee Members,

I write on behalf of the American Financial Services Association (AFSA)¹ to express our serious concerns about Senate Bill 264. This measure has the potential to significantly disrupt access to safe and affordable credit in Alaska. If passed as written, it would drive far-reaching unintended consequences, as those Alaskans with credit scores that make it more difficult to secure loans from banks and credit unions find they have nowhere to turn for the credit they need to smooth their finances, meet emergencies, and build credit histories to become financially mobile.

If enacted, SB 264 would effectively eliminate the only safe, affordable, credit-building loans available to many Alaskans, as well as place unnecessary and damaging limitations on the commercial lending operations of AFSA members operating in the state. For decades, Alaska's licensed lenders have filled a niche in the state's credit markets by serving residents who have less than perfect credit scores with fair and affordable loan options. AFSA members also make commercial loans in the state that, while not intended to do so, would be limited were SB 264 to become law. This bill would prevent these lenders who play by Alaska state rules from operating. By doing so, this bill would negatively affect the very communities it attempts to help, including lower and moderate-income families, underserved and minority communities.

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 traditional installment loans, direct and indirect vehicle financing, mortgages, and payment cards. AFSA members include national banks and non-bank state licensed financial institutions. AFSA does not represent payday lenders, title lenders, or credit unions.

The Dangers of Non-TILA APR

SB 264 mirrors disastrous policies seen in a couple other states by incorporating elements such as insurance that are unrelated to the cost of credit into the calculation of Annual Percentage Rate (APR), and then using that calculation for price cap purposes. The effect is to artificially increase the “APR” that a form of credit can be said to carry so that it exceeds the Truth-in-Lending Act (TILA) definition, which has regulated the consumer credit industry since 1968. Altering the longstanding industry practices outlined in TILA undermines its underlying consumer protections and would severely limit access to credit in Alaska.

Fundamental to the discussion of APR caps is an understanding of what APR is and what it measures. APR is a measure of time, not cost. As an example, A \$100 loan with \$1 in interest is 1 percent APR if paid back in a year, and 365 percent if paid in a day—but the cost is still \$1. For this reason, APR limits such as those contemplated in SB 264 are an inappropriate way to regulate loans in general. They have little bearing on the true cost of credit and only serve to eliminate good sources of small dollar credit along with bad.

In fact, there is now a preponderance of evidence that points to the fact that “All-In” APR limits eliminate small dollar credit in the states where they exist. This disproportionately affects those with developing credit scores who have yet to reach the stage at which they qualify for bank credit, and forces those who are lucky enough to qualify for credit into much larger loans than they need—thereby increasing their debt.

This is because, as the United States Federal Reserve noted, creditors do not break even at 36 percent unless a loan is for more than approximately \$2,500.⁶ This is the case for loans at 36% as defined in the Truth in Lending Act (TILA). This break-even amount would be much higher under SB 264, because it would include non-APR items in the APR calculation.

A very similar law passed in Illinois in 2021. This has demonstrably failed, with three particularly notable consequences:

1. **368,916 Borrowers Lost Access to Credit:** The total number of borrowers who received some kind of state-reported loan went from 431,018 people in 2019 down to 62,102 people in 2021.⁷ The difference is 368,916 people no longer getting state-regulated and reported loan products in that state.

2. **The number of licensed lenders in the state halved:** The number of state licensed lenders went from 1,813 entities at the end of 2020 to 900 entities at the end of 2021, and has decreased further since.⁸
3. **The lucky few who could qualify for credit were forced into larger loans for longer terms:** For the lucky subprime consumers who still have access to credit in Illinois, the average loan size increased by 40 percent.⁹ According to the Illinois Trends Report issued by the state, loans for larger amounts with longer repayment terms have increased by 226%.¹⁰ Imposing an arbitrary limit on APR means that people who need small loans are forced to borrow more money for longer terms—if they still qualify for loans at all.

But you need not take it from us. Several organizations understand the value of traditional installment lending and the potential damage caused by All-In APR-based rate cap laws:

- The National Black Caucus of State Legislators resolution BED-16-21¹¹ states “Traditional Installment Lenders should be reasonably protected” and “that the NBCSL supports the expansion of Traditional Installment Loans as an affordable means for borrowers to establish and secure small dollar closed end credit while preventing cycle of debt issues inherent with non-amortizing balloon payment loans.”
- The 2022 Congressional Black Caucus Institute Annual Report¹² highlights the harm of 36% rate caps, saying “proposals to protect consumers from predatory practices through a 36% rate cap . . . cause more harm than help by limiting consumer access to credit.”
- The Urban Institute study¹³ on the effects of the Military Lending Act (*i.e.* a similar “All-In” rate cap to that contemplated in SB 264) used credit bureau data from 2013-2021 and found no evidence of decreased collection rates among subprime borrowers, no improvement in credit scores, suggestive evidence that subprime consumers had less access to credit, noting that expanding the MLA “might have detrimental effects on the most vulnerable consumers by limiting their access to credit in times of need.”

SB 264 Would Effectively Ban Credit Insurance

Furthermore, when the novel definition of “All-In APR” is used for rate cap purposes, it acts as a ban on optional protection products, such as credit insurance for consumers who want to build financial resilience. For AFSA members, optional protection products complement loans, helping customers build financial stability, security, and resilience. Credit insurance is accessible, affordable, and popular with customers, who understand that it plays an important role in limiting their exposure to financial risk and the consequences of financial shock.

Data on financial shocks, provided by The Pew Charitable Trust, found that 60 percent of households had experienced a financial shock in the past 12 months². Similar research carried out by the Consumer Credit Industry Association (CCIA) demonstrates that 59 percent of individuals have experienced an unexpected repair or expense costing between \$500 and \$2,000 in the past five years, and 28 percent have had one costing more than \$2,000.³

If Alaska has concerns about products like credit insurance, debt cancellation contracts, debt suspension agreements, credit-related ancillary products, and/or other benefits conferred on the consumer contemplated in SB 264, we respectfully request that proponents of this legislation please open a dialogue about those concerns instead of effectively back-door banning them by including them in the calculation of “rate.”

The Effect on Commercial Credit

The over-broad focus of SB 264 means that as written, it **also applies to commercial credit**. This will affect the availability and flexibility of vehicle floor planning to new and used automobile dealers in Alaska, because these lines of credit are not “loans,” but rather open-end lines of credit available to dealers that have terms determined by dealer actions. This same form of financing is prevalent in RV and boat financing.

Commercial B2B lenders extend credit to a more sophisticated borrower. Commercial lenders routinely offer complex financing options to their customers, and commercial borrowers in the space where AFSA members provide credit are clearly familiar with these financing arrangements. For this reason, commercial B2B lenders do not require, and historically, have not been subject to, the levels of oversight and protection imposed upon retail lenders (*i.e.* businesses that lend to consumers). SB 264 would affect the appetite for risk and undermine the commercial lending business model for lending. Higher risk and higher costs will affect the credit availability to commercial borrowers and ultimately affect the prices of goods and services available to consumers—particularly the cost of vehicles and boats in the state.

The Need for Safe and Affordable Consumer Credit in Alaska

The consequence of enacting SB 264 would be a radically reduced financial capability for hardworking Alaskans and their families, disproportionately affecting low-income and minority

² [The Role of Emergency Savings in Family Financial Security \(Pew\) \(2016\)](#)

³ [Credit Insurance Delivers Peace of Mind \(CCIA\)](#)

communities⁴. Reducing the supply of credit through regulations will not affect consumer demand for it, and has the associated effect of denying potential borrowers the ability to build their credit histories and become financially mobile. According to the U.S. Federal Reserve, 40 percent of Americans lack savings of \$400⁵ and rely on safe credit sources during financial emergencies. Auto-finance is the most common route to ownership of the vehicles essential to get to work, school, or the doctor's office. This go-to financing option for many Alaskans would be dramatically limited if the cost of optional products is included in the APR calculation.

Unfortunately, individuals with poor credit scores—perhaps those starting out in careers and family life—have difficulty accessing traditional banking services. These consumers need the opportunity to build their credit so they can improve their access to financial services and lower its cost to them. In the absence of the safe and affordable alternatives provided by licensed and regulated AFSA members, consumers will have limited options and may seek unregulated sources of credit, which would have broad, unintended socioeconomic implications for Alaska.

In conclusion, we respectfully ask you to vote no on SB 264, in support of the hard-working Alaskans with credit scores that make it more difficult to secure loans from traditional banking services. We also urge you to study the implications of what would happen in Alaska if a bill like SB 264 were enacted. We believe an independent study would accurately predict two outcomes: 1) a dramatic increase of consumers without anywhere to turn for the credit they need to smooth their finances, meet emergencies, and become financially mobile; and 2) a limitation of commercial credit floor planning lines to new and used automobile, RV, and boat dealers.

Sincerely,

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

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⁴ The 2022 [Congressional Black Caucus Institute Annual Report](#) highlights the harm of 36 percent rate caps, saying “...they cause more harm than help by limiting consumer access to credit.”

⁵ Source: [Federal Reserve Economic Well-being of U.S. Households in 2022](#), p. 32

⁶ “A loan amount of \$2,530 is necessary to break even at 36 percent.” *The Cost Structure of Consumer Finance Companies and Its Implications for Interest Rates: Evidence from the Federal Reserve Board's 2015 Survey of Finance Companies*, FEDS Notes, The Board of Governors of the Federal Reserve System, August 12, 2020. We note that the break-even figure is for a 36% TILA APR. The amount of a loan would presumably need to be larger in a state with an APR definition that includes items beyond TILA rate as “rate.”

⁷ Source: [Illinois Trends Report 12/20/2022](#)

⁸ *ibid*

⁹ Source: [Credit for me but not for thee: The effects of the Illinois rate cap 7/3/23](#)

¹⁰ Source: [Illinois Trends Report 12/20/2022](#)

¹¹ [A Resolution Promoting Safe and Affordable Lending Practices \(NBCSL\)](#)

¹² <https://www.cbcinstitute.org/21stcenturycouncil>

¹³ [The Effects of APR Caps and Consumer Protections on Revolving Loans \(Urban Institute\)](#)