

May 15th, 2024

Assemblymember Grace Lee
New York Assembly Consumer Affairs Committee
LOB 942
Albany, NY 12248

Re: NY S7783/ NY A9192 - Establishes The New York Junk Fee Prevention Act

Dear Assemblymember Lee,

On behalf of the American Financial Services Association (“AFSA”),¹ thank you for the opportunity to provide comments on Senate Bill 7783 and Assembly Bill 9192, 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.

AFSA members include installment lenders, auto finance companies, and other consumer creditors, all considered non-depository financial institutions. These entities are federally mandated to provide consumers disclosures of all fees associated with a financial arrangement before the arrangement is finalized. Additionally, AFSA members are subject to state regulatory oversight, including by New York’s Department of Financial Services, and are already required to follow any rules or regulations that prohibit the misrepresentation of costs associated with a financing arrangement.

S7783 was amended in the Senate to exempt “financial institutions” that are mandated to provide disclosures under specific federal laws, as defined in Section 801 of the NY financial services law. Although AFSA members are federally required to provide the same disclosures, they do not meet Section 801’s definition, which is limited to depository financial institutions including banks, credit unions, and savings and loan associations. We appreciate the Senate’s intention to exempt these entities but are concerned that Section 801’s definition is too narrow and would unintentionally fail to exempt non-depository financial institutions.

Like other depository financial institutions, non-depositories are generally unable to determine, disclose, or advertise the fees related to a financial arrangement until the underwriting process is completed. We appreciate the Senate’s recognition of these circumstances when exempting

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.

entities that meet Section 801's definition but believe it should be properly expanded to cover non-depository financial institutions, who have similar practices but only differ on their source of funds. Lawmakers in California recognized this and exempted non-depository institutions in a similar bill (SB 478) signed into law in 2023. Additionally, lawmakers in Colorado and Minnesota have taken a similar approach with bills introduced in 2024. Considering many of our members operate nationally, we respectfully request the Assembly to make this technical change so state law on this issue remains consistent.

Thank you in advance for your consideration of our comments. We have enclosed amendment language that would appropriately exempt financial institutions for your review. 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 written in a cursive style with a large, looping initial "E".

Elora Rayhan
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