

August 5, 2024

The Honorable Emilia A. S. Galdieri
Bank Commissioner
State of New Hampshire Banking Department
53 Regional Drive, Suite 200
Concord, NH 03301

PETITION FOR EMERGENCY RULE OR ORDER

Dear Commissioner Galdieri,

On behalf of our members who participate in the vehicle finance industry and who do business in New Hampshire, the American Financial Services Association¹ hereby requests an emergency rule or order to delay enforcement of the new provisions outlined in HB 1243, signed by Governor Sununu on Friday, August 2nd.

Authority

Sec. 361-A:26 of HB 1243 includes broad “Powers of the Commissioner,” and states (II), “The commissioner may adopt rules, pursuant to RSA 541-A, relative to the administration and enforcement of this chapter.” And further states (III), “The commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of this chapter.”

These provisions give the commissioner the broad authority to do what is required to enforce the vehicle finance code in New Hampshire in a reasonable manner. Due to the effective date in the bill, it is necessary to delay enforcement of the new provisions of the bill to protect New Hampshire consumers’ uninterrupted access to vehicle finance credit in the state. We request that the commissioner issue an emergency rule or order that ensures New Hampshire vehicle credit is not unnecessarily disrupted now that Governor Sununu has signed the law, triggering the law’s immediate (or as written, retroactive) effective date.

Necessity

Our members in the vehicle finance industry and New Hampshire dealers now find themselves in a precarious and impossible situation. Because the changes required are immediate upon enactment, but cannot be immediately complied with (*i.e.*, necessary forms changes, customer notice requirements, operational changes, etc.), our members and New Hampshire dealers must either continue doing business in compliance with the existing law but not the new provisions of the

¹ The American Financial Services Association (AFSA) is the national association for the consumer credit industry. Our members include non-banks and banks, large and small, who offer consumer credit, including retail sales finance, direct vehicle financing, leasing, traditional unsecured installment lending, mortgage lending, mortgage servicing, and payment cards. AFSA does not represent the payday or title lending industry. AFSA also does not represent credit unions.

bill or cease the retail financing of vehicle sales in the state altogether until they comply with the new provisions. Both choices are unacceptable, and neither choice helps New Hampshire consumers.

This untenable choice is compounded for those of our members who, as part of their business model, utilize the securitization process to fund the purchase of consumer retail installment sale vehicle contracts. Securitizations require warrantees that all contracts in the securitization pool comply with all applicable laws. This means that contracts entered into after the Governor’s signature but before the law can be complied with (or arguably back to the bill’s retroactive stated July 1, 2024 effective date, though we of course expressly disclaim any ability to comply with something retroactively), cannot be included in securitization pools. Without this critical source of funding, those members are highly unlikely to continue their support of consumer vehicle purchases in the state.

Language

We hereby request that an emergency rule or order state:

“Due to the effective date stated in the bill, compliance with new provisions of the vehicle finance code is not possible by the effective date. As a result, in order to avoid uncertainty and potential disruption to the ability of New Hampshire dealers to finance vehicle sales and New Hampshire customers to finance vehicles through dealers, the Commissioner does not deem it reasonable to immediately enforce the new provisions of the bill. Therefore, the commissioner will not enforce the new provisions of this chapter until January 1, 2025.”

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Fagre Arlowe", written in a cursive style.

Danielle Fagre Arlowe
Senior Vice President
American Financial Services Association