February 2, 2026

The Honorable Nathan Sosa
Chair, House Committee on Commerce and Consumer Protection
Oregon Senate
900 Court St. NE
Salem, Oregon 97301

Re: HB 4116 – DIDMCA Opt-Out

Dear Representative Sosa,

On behalf of the American Financial Services Association ("AFSA"), thank you for the opportunity to comment on HB 4116, recently introduced and referred to your committee. Founded in 1916, AFSA is the national 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, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

AFSA has many members that own and operate their own state-chartered federally insured bank. For example, a large credit card company that from the outside looks like its peers, is in fact, a state-chartered bank. Another member that looks like a captive vehicle finance company from the outside is in fact a direct lender and a bank; another member is a captive finance company that uses its affiliate state-chartered bank as a liquidity option and as a financing option for vehicle floor planning (i.e. extending credit to automobile dealers to finance the cars in their showrooms and on their lots), or funding consumer vehicle purchases for different brands of vehicles that are not the captive's own make and models. A state charter offers a bank certainty, predictability, and consistency, and DIDMCA put state-chartered banks on an even ground with national banks, just as it was intended to do. State opt-outs of DIDMCA, therefore, present an existential threat to a variety of our members' business models. That threat is what drives AFSA's deep concern over HB 4116.

AFSA has corresponded with Oregon policymakers on this issue in the past. AFSA testified in the House in January last year and signed onto a joint trade letter then as well. We have grave concerns about HB 4116. Opting out of the Depository Institutions and Monetary Control Act of 1980 (DIDMCA) has consequences that have nothing to do with the bank partnership model that many call "rent-a-bank," which seems to be the motivation for such efforts. This is a much more complicated issue than DIDMCA opt-out enthusiasts profess. This is something that prior to Colorado's law (discussed below and which is being challenged in the courts) has not been touched by any state in over 30 years. There are reasons for that.

Opting Out of DIDMCA Hurts Oregon's Own State-Chartered Financial Institutions

Oregon's banks are detrimentally affected under any interpretation of the DIDMCA opt-out. Setting aside Colorado's misdirected interpretation of its opt-out rights, discussed further below, one thing is not in controversy: opting out denies Oregon state-chartered banks and credit unions the right to uniformly export their home state rates and fees. Those institutions are now at the mercy of every other states' rates and fees. Oregon state-chartered institutions will suffer financial loss trying to loan to borrowers in states with rates and fees less favorable than in Oregon. And, even in states with comparable or more favorable usury laws, the patchwork of caps across multiple states will make it difficult to do business in an efficient, cost-effective manner

Opting Out Has No Effect on National Banks and Can Hurt Oregon Consumers

National banks derive their rate export rights from the National Banking Act, so opting out of DIDMCA has no effect on what rates and fees they will charge to Oregon consumers. Moreover, if Oregon tries to emulate Colorado by stifling credit from non-Oregon state-chartered institutions, you will simply hand over a larger share of the market to those larger national banks to charge whatever rates and fees they wish. Consumers, consequently, will be denied choices and options they currently enjoy.

The Colorado Path is a Long, Litigious, Expensive Road with at Best an Uncertain Result

Colorado opted-out of DIDMCA by passing a bill in 2023 which became effective in 2024. **It is now 2026, and Colorado is still barred from enforcing that law against the non-Colorado state-chartered institutions tied to the litigation** (those plaintiffs being AFSA, the Industrial Bankers—NAIB—and a fintech trade group known as AFC). To recap, Colorado wants to impose its interest rate and fee caps on loans made not just by Colorado state-chartered institutions, but also by out-of-state, state-chartered institutions lending to Colorado consumers. In a June 18, 2024, decision, the Colorado federal district court ruled against Colorado and imposed a preliminary injunction favoring the plaintiffs and their members. You undoubtedly have heard that, by a 2-1 vote, the 10th Circuit reversed that decision in November of 2025. It is important to note that (a) the preliminary injunction is still in place, (b) the dissenting judge wrote a 30 page blistering opinion, (c) the plaintiffs have asked the 10th Circuit for a full 12-member, *en banc*, review, (d) their motion is supported by the OCC, the FDIC, 20 state attorneys general, and leading national trade groups including the American Bankers Association, and (e) we fully expect the plaintiffs to petition the U.S. Supreme Court to hear the case if necessary. We also fully expect the preliminary injunction to stay in place pending all these proceedings.

In sum, at best, following Colorado's lead will lead to the same result: years of costly litigation which will either end in plaintiff's favor or at best be dragged out for years in federal court.

Copy to: Members of the House Committee on Commerce and Consumer Protection

Sincerely,

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