February 23, 2025

Senate Labor and Commerce Committee
Alaska State Legislature
Alaska State Capitol
120 4th Street
Juneau, AK 99801

Subject: Opposition to Senate Bill 39 Based on Empirical Research and Consumer Credit Concerns

Honorable Members of the Alaska State Legislature,

As President of the Southwest Public Policy Institute, I am dedicated to advancing policies that ensure financial health and equitable access to credit. I am writing to express strong concerns regarding Senate Bill 39, which seeks to impose a 36% rate cap on consumer credit products. While well-intended, this measure risks cutting off access to essential financial tools for Alaskans, particularly low-income and underbanked consumers, as demonstrated by our extensive research.

Our studies, No Loan For You! and No Loan For You, Too!, document the real-world consequences of similar rate caps, particularly in New Mexico, where borrowers have faced shrinking credit options and increasing financial distress. Rather than benefiting consumers, such restrictions have forced them into costlier, less regulated alternatives.

A key finding from our research is that traditional financial institutions—both banks and credit unions—have failed to provide viable alternatives to the products eliminated by rate caps. Our consumer emulation studies highlight these failures in action. For example, Wells Fargo's highly publicized Flex Loan program claims to offer emergency credit, yet our investigation revealed it to be inaccessible to many consumers due to unclear eligibility requirements, arbitrary account closures, and a lack of transparency in the approval process. Consumers seeking short-term loans through Wells Fargo often find themselves caught in a bureaucratic maze with no clear path to approval.

Similarly, our research into credit union lending shows that Payday Alternative Loans (PALs) are largely unavailable to the consumers they are supposed to serve. We tested 15 credit unions in New Mexico, and 86% either denied membership, lacked small-dollar loan programs, or imposed such restrictive requirements that the loans were effectively inaccessible. Even for a well-qualified borrower with an established financial history, obtaining a small-dollar loan from these institutions proved nearly impossible.

These findings underscore a crucial reality: when policymakers cap interest rates, they do not eliminate demand for small-dollar loans—they only eliminate legal, regulated sources of credit. Consumers unable to obtain credit from traditional lenders are left with few options beyond overdraft fees, pawnshops, or unregulated lenders, all of which can be far costlier than the products rate caps seek to eliminate.

In states like Illinois, where similar legislation has been enacted, the data confirm this outcome. Consumers report increased difficulty in managing financial emergencies, and many have been pushed into higher-cost alternatives that ultimately worsen their financial standing.

Although Senate Bill 39 aims to protect consumers, it risks replicating these negative consequences in Alaska. The bill does not account for the diverse credit needs of Alaskan residents, particularly those in rural or underserved areas where traditional banking services are scarce. Instead of a one-size-fits-all rate cap, I urge the Committee to explore more flexible regulatory frameworks that both safeguard consumers from predatory practices and preserve their access to essential credit.

As an advocate for financial inclusion, I strongly recommend that the Committee reconsider SB 39 in light of these findings. Protecting consumer access to responsible, regulated lending options is critical to the financial well-being of Alaskan families and communities.

Thank you for your time and consideration. I welcome the opportunity to discuss these findings further and provide additional research to support consumer-focused policy solutions.

Sincerely,

Patrick M. Brenner
President, Southwest Public Policy Institute

[Attachments: Research Reports "No Loan For You!" and "No Loan For You, Too!"]

Southwest Public Policy Institute

NO. 2 | FEBRUARY 2023
CENTER FOR FINANCIAL RESPONSIBILITY

# No Loan for You!

## Why the War on Specialized Emergency Loans Hurts New Mexico

D. Dowd Muska & Patrick M. Brenner

*Half of the harm that is done in this world*
*Is due to people who want to feel important.*
*They don't mean to do harm – but the harm does not interest them.*
*Or they do not see it, or they justify it*
*Because they are absorbed in the endless struggle*
*To think well of themselves.*

– T. S. Eliot, *The Cocktail Party* (1949)

This paper, in its entirety, can be found at **https://southwestpolicy.com/sppi02**

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**Southwest Public Policy Institute** | Better living through better policy

## SOUTHWEST PUBLIC POLICY INSTITUTE

The Southwest Public Policy Institute (SPPI) is a research institute built to explore and build on sound, data-driven policies regarding education, crime, and economics that will encourage positive change in the American Southwest.

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The division in America comes from the unwillingness to communicate with one another and to discuss the problems and the issues in front of us. By working together, exchanging ideas, and bringing solutions to problems we face, we can accomplish what public servants are meant to do: deliver ***better living through better policy***.

# INTRODUCTION

Imagine you are a married father of three. You own a home and make your mortgage payments on time. Your work history is solid, your credit scores are stellar (over 800), and you have no criminal record. By every measure, you are a well-qualified prospective borrower.

The scenario is not a fantasy for one of us (Patrick M. Brenner), who recently attempted to obtain a short-term, small-dollar loan from three national banks in the Albuquerque, New Mexico metropolitan area. His experience exposed an unpleasant reality that should disturb all who care about the customers and providers of financial services in the Land of Enchantment.

Last month, The Pew Charitable Trusts claimed that "five years ago, no large banks offered small installment loans or lines of credit to checking account customers with low or no credit scores." But today, "six of the eight largest banks, measured by their number of branches, do."1

After reading about "the new availability of bank small-dollar loans," Patrick was curious. Of the financial institutions Pew listed, three have branches in New Mexico: U.S. Bank, Wells Fargo, Bank of America. Over the course of a week, Patrick applied for a small-dollar loan at each of the financial institutions. His experiences were far from "consumer-friendly."

For U.S. Bank, the process started easily enough: Patrick strolled into the lobby of a local branch and asked about a "Simple Loan." The tellers didn't understand his query and requested a manager, despite Patrick using U.S. Bank's own name for the product.

"We don't offer these loans in branch," said the manager. "You'll need to apply online."

"But I don't have an account with online banking access," stated Patrick.

"Then you'll need to open a checking account."

Patrick did as told – supplying a $25 minimum to open a checking account, and agreeing to fees of about $5 per month. (An ATM was needed to withdraw the requisite cash.)

Patrick returned with the cash, and once the checking account was established – after a relatively simple application – online banking was set up. From there, applying for the loan was smooth.

Patrick leaves U.S. Bank without a specialized emergency loan.

The entire process, from entering the lobby until receiving the rejection notice, took about three hours, including transit time. Unfortunately, the application was denied.

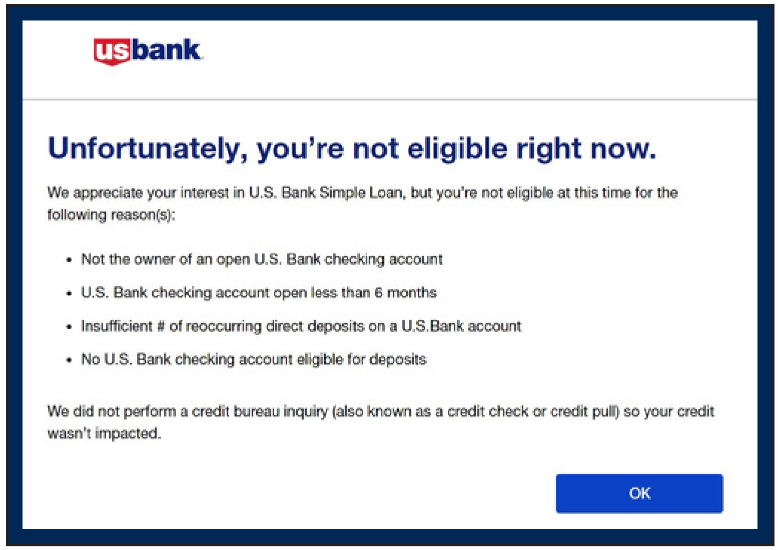
The same procedure took place at Bank of America. Denial, again, was the result – after the same amount of time was wasted and the same amount of cash was lost. Now Patrick was down $50, and still didn't have access to the small loan he "needed."

Patrick needed a checking account to borrow from Wells Fargo, too. But after his first visit to a local branch, it was determined that an appointment was necessary. The earliest opportunity was 10:00 am the following morning.

Patrick arrived promptly at 9:55, but 10:00 am came and went, as other walk-in customers took up positions with the available bankers. Patrick was not seen until about 10:15 am. After a similarly lengthy process, Patrick finally left the branch with his new checking account, short by another $25. From there, the online application for the loan was rejected, again. Wells Fargo took over four hours of time, including transit to and from the branch, twice, as well as the delays in meeting the appointment time by the branch employees.

After visiting these three branches, it became clear: the lauded "consumer-friendly small-dollar loan products” offered by the big banks were anything but consumer-friendly. In the end, no small-dollar loan was offered.

To reiterate, Patrick is solidly middle class, with an excellent financial history and not so much as an outstanding parking ticket. He and his wife have access to revolving credit from numerous institutions, and their accounts are all in good standing.



*Patrick was deemed ineligible for a U.S. Bank “Simple Loan”.*

So why was Patrick denied access to a small-dollar loan — *three times*?

## ‘PAYDAY LOANS’: JUST THE FACTS

The Federal Deposit Insurance Corporation defines the “unbanked” as those who “do not have an account at a federally insured depository institution,” and the “underbanked” are those who “have an account and also use nonbank products or services that are disproportionately used by unbanked households to meet their transaction and credit needs.”2

There are several reasons why Americans are unbanked/underbanked. For some, the expense of “maintaining a bank account, including meeting minimum balance requirements and paying fees for overdrafts and other services,” is too burdensome. Others have a “lack of trust in banks,” and some have a passionate “desire for privacy.”3

In Albuquerque, New Mexico’s largest city, “a third of the households … do little or no mainstream banking, substantially higher than the national average.”4

Fortunately, alternative financial services (AFS) exist to meet the needs of the unbanked/underbanked. Options include “[c]heck-cashing outlets, money transmitters, car title lenders … pawnshops, and rent-to-own stores.”5 The AFS marketplace includes what critics deride as “payday loans.” Whatever one calls them, they

> *provide fast cash to cover emergency situations or help pay a borrower’s expenses from one paycheck to the next. These unsecured loans have a short repayment period ... . A balloon payment – full amount of the loan plus fees – is generally due on the borrower’s next payday after the loan is made.*
> *The loans are generally for $500 or less and come due within two to four weeks after receiving the loan. Loan lengths vary based on the borrower’s pay schedule or how often income is received – so the length could be for one week, two weeks, or one month.*[6]

Borrowers “tend to be relatively young and earn less than $40,000; they tend to not have a four-year college degree; and while the most common borrower is a white female, the rate of borrowing is highest among minorities.”[7] As the Competitive Enterprise Institute noted, for the unbanked/underbanked, “a car breaking down or the need for emergency travel” can impose an obstacle that would not concern most middle- and upper-income households. And for people at the lower end of the socioeconomic scale “who could pay back [a small-dollar] loan in a few months, or even a few weeks,” the “options are limited”:

> *A bank typically won’t process a consumer loan of a few hundred dollars. Sometimes folks in a pinch can borrow money from relatives, but even when they can, for many this is a blow to their pride.*
>
> *These individuals can also be late in paying their bills and credit card debt, bounce a check, or overdraw on their debit card. But these options not only result in lowering their credit scores, which affect their ability to better their lives through a new job or starting a business, they are often more costly than a payday loan would be.*[8]

It’s little wonder, then, that from close to zero just three decades ago, millions of Americans now conduct business with the short-term, small-dollar credit industry every year. And these types of loans are increasingly moving online. Clarity Services, the “leading credit reporting agency for near-prime and nonprime consumers,” found that between 2016 and 2019, the volume of “online single pay loans” more than doubled.[9]

## MISSING THE POINT – AND THE PURPOSE

In 1998, the Consumer Federation of America contended that "[payday] loans sanction the writing of bad checks and entice consumers into relying on very expensive debt to live beyond their means."10 It was one of the earliest attacks on an industry that deep-pocketed activists and media-savvy politicians on both the left and right label "predatory."

In 2010, President Obama touted the federal government's new Consumer Finance Protection Bureau (CFPB) as having "the potential to save consumers billions of dollars over the next 20 to 30 years," via "simple stuff," including "making sure that payday loans aren't preying on poor people in ways that these folks don't understand."11 In 2019, the cable-news commentator Tucker Carlson thundered: "Why is it defensible to loan people money they can't possibly repay? Or charge them interest that impoverishes them? Payday loan outlets in poor neighborhoods collect 400 percent annual interest."12

When exploring the reality of short-term, small-dollar credit, Carlson's accusation is the best place to begin. The industry's enemies monotonously maintain that it imposes excessively high "interest rates" on borrowers. But as a Cato Institute scholar observed, calculating an annual percentage rate (APR) for the type of loans Carlson denounced requires "a little bit of hocus-pocus."13 Customers typically pay a flat fee for borrowing, and by their very nature, the loans are of very limited length:

> *[F]ew, if any, borrowers take a whole year to pay off their payday loans. Data suggest most borrowers pay back the initial amount borrowed within six weeks, so it is highly unlikely that most borrowers would end up paying anywhere near the purported APR of the loan.*14

Economist Thomas Sowell exposed the fallaciousness of the APR artifice with two helpful analogies:

> *Using this kind of reasoning – or lack of reasoning – you could quote the price of salmon as $15,000 a ton or say a hotel room rents for $36,000 a year, when no consumer buys a ton of salmon and few people stay in a hotel room all year. It is clever propaganda.*15

As for Obama's insinuation that borrowers are too stupid to know what they're doing,

> *payday loans enjoy widespread support among their users. Surveys have found that 95 percent of borrowers say they value having the option to take out a payday loan. The same proportion also believe that payday loans provide a safety net during unexpected financial trouble. A 2009 comprehensive economic analysis of consumer demand for payday loans by George Washington University Economics Professor Gregory Elliehausen … found that 88 percent of respondents were satisfied with their last transaction. Less than 2 percent of the consumer complaints filed with the CFPB are related to payday loans, with the vast majority related to already illegal collection practices. … Small-dollar lenders are often more competitive on price and accessibility than traditional banks. Some customers prefer payday lenders because they are more transparent and provide better service. Rather than being hit with an unexpected overdraft fee, customers appreciate the transparency of a flat, predictable fee. Storefront payday lenders also foster personal relationships between the teller and the customer. Professor Lisa Servon … worked as a check casher and small-dollar loan teller. She found that many customers felt they got better service than at banks. According to Servon, not a single person she served complained about being charged too much or about quality of the products, or got into an argument with their teller. She and her colleagues were repeatedly tipped by their customers who appreciated the service.*[16]

Finally, while opponents of short-term, small-dollar credit assert that the industry operates in a "Wild West" environment bereft of government scrutiny, that is not the case:

> *Payday lending is highly regulated at the state level – including through usury limits, maximum loan amounts, and proscribed collection practices – and is subject to existing federal laws covering consumer credit generally, such as the Truth in Lending Act, Equal Credit Opportunity Act, Electronic Funds Transfer Act, and the Gramm-Leach-Bliley Act.*[17]

## 'HELPING' BY HURTING

Despite their vacuous claims, crusades against "payday loans" have proven successful in several states. A 36 percent "APR" cap, enacted via legislation on ballot initiative, is often the goal. Such a mandate was adopted by South Dakota in 2016, Colorado in 2018, California in 2019, and Nebraska in 2020.

Ironically, as the “consumer protection” has intensified, research undercutting its justifications has grown. In 2016, an investigation published by The Journal of Law and Economics concluded that “consumers switch to other forms of high-interest credit when payday loans become unavailable.”18 The following year, a professor at the University of Idaho found that Ohio’s “attempt to eliminate hardships caused by payday loan usage through prohibition … may have inadvertently shifted the problem from one industry to another” – i.e., with “payday loans” curtailed, “consumers will seek alternatives and substitute across other financial service products, such as pawnbrokers, over-draft fees, and direct deposit advances.”19 Clearly, “banning or limiting payday lending doesn’t alter the underlying reasons why people seek out such loans. Restricting payday loans pushes users to other options, which have tradeoffs of their own.”20

A few months ago, a study of Illinois’s cap on the “interest rate” for specialized emergency credit discovered that the restriction “decreased the number of loans to subprime borrowers by 44 percent and increased the average loan size to subprime borrowers by 40 percent.” Furthermore, “an online survey of short-term, small-dollar borrowers in Illinois” found that “only 11 percent of the respondents answered that their financial well-being increased following the interest-rate cap, and 79 percent answered that they wanted the option to return to their previous lender.”21

Last month, data released by Colorado’s attorney general “confirmed previous studies’ findings that interest rate caps reduce access to credit for consumers who need it,” with “small dollar loans … less available for nonprime consumers in Colorado than in Utah or Missouri, states with fewer restrictions on small dollar lending.”22

At the federal level, it is worth noting the impact of 2006’s Military Lending Act (MLA), which

> *imposed a 36 percent interest rate cap on consumer credit for active-duty service members and their dependents.*
> *Research … shows that the legislation has offered no benefit to members of the military and their families, and may even have caused some harm.*
> *In 2017, researchers at the U.S. Military Academy at West Point found that payday lending has had no adverse effects on members of the military and that the MLA was unnecessary. Further, since the MLA was enacted,*

*the number of financial services companies operating near military bases and serving military families has dropped. This has contributed to the high number of military personnel suffering from financial distress, which more than doubled between 2014 and 2019.*23

## NEW MEXICO SUCCUMBS

The Land of Enchantment suffers from the fourth-lowest median household income in the nation.24 It "has long had some of the highest rates of alcohol and drug abuse."25 The share of all state births to unwed mothers is third-worst.26 And the portion of its young-adult population that has dropped out of high school is the largest in America.27

Given its profound socioeconomic pathologies – and "progressive" politics – New Mexico is fertile ground for the war on specialized emergency lenders. In 2005, then-Governor Bill Richardson, making vague assertions about "just a lot of abuses and problems in the state," proposed "a reasonable cap."28 But the industry's defenders managed to forestall additional regulations for many years, despite a withering onslaught of criticism from city councils, county commissions, religious organizations, liberal lobbyists, taxpayer-financed academics, and a highly sympathetic (and at times, wildly biased) news media. (Dissenting voices were all but nonexistent, although in 2015, the *Clovis News Journal*'s editorial page gamely declared that it is "simply not government's place to interfere with the free market."29)

In 2017, legislation was passed barring any "lender, other than a federally insured depository institution" from making a loan "that has an annual percentage rate ... greater than 175%."30 Then-Governor Susana Martinez signed the bill into law. But 175 percent is not 36 percent, and the specialized emergency lending industry was far from safe. In 2020, efforts to tighten the cap strengthened, when a leftist "results-oriented think tank" launched its "End Predatory Lending" initiative. Two years later, Think New Mexico "successfully advocated for the passage of House Bill 132 ... to reduce the maximum annual interest rate on small loans from 175% to 36%."31 Enthusiastically signed into law by current Governor Michelle Lujan Grisham – in 2021, she had made ending "predatory lending practices by limiting annual interest rates and increasing maximum loan size" a legislative priority32 – the 40-page legislation became effective on January 1, 2023.33

As the new year approached, the *Santa Fe New Mexican* reported that the law was “already changing the face of the state’s small-lending industry.” The New Mexico Regulation and Licensing Department disclosed that “the number of active licenses for small-loan companies has dropped 7.5 percent in recent months, from 452 in June to 418 in November, and employees in the industry say numerous lenders have closed up shop.”34 Three weeks later, the *Albuquerque Journal* reported that the “‘buy now, pay later’ service Afterpay” would “no longer be doing business in the state,” because of what the company called “regulatory changes.”35

As the options for AFS dwindle in the Land of Enchantment, are other players in the financial-services industry stepping up? The Pew Charitable Trusts – based in Philadelphia – boasts about the growing availability of “safer and more affordable” options “for customers who previously would turn to high-cost payday loans or other alternative financial services, such as auto-title loans and rent-to-own agreements.”36 Santa Fe New Mexican columnist Milan Simonich – conducting no research of his own – makes the same gauzy assertion, writing that “banks are providing small loans to New Mexico customers at reasonable rates, all at a rapid clip.”37 Patrick certainly didn’t find that to be the case with the three Albuquerque-area banks he tested.

## C ONC LU SION

Feel-good public policy often has the opposite effect of what its backers seek to accomplish. Even at this early stage of the 36 percent “APR” cap, the Law of Unintended Consequences appears to be at work in New Mexico. The “successful” campaign against “payday loans” has been a dubious blessing for the state’s unbanked/underbanked. Rest assured, additional government interventions will be proposed to “solve” the problems created by well-intentioned but fundamentally ignorant activists and politicians.

Policymakers in the Land of Enchantment should replace virtue-signaling regulation with “rules of the road” that foster greater competition in financial services. Clear, consistently enforced standards can ensure that the lending market is open to all providers, while at the same time protect consumers. To truly aid the state’s middle- and low-income households, the goal should be increased choice, not the inhibition of nontraditional credit options. Ideology and optics are no substitute for a healthy marketplace.

# NOT E S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SPPI

Southwest Public Policy Institute

NO. 4 | JUNE 2023
CENTER FOR FINANCIAL RESPONSIBILITY

# No Loan For You, Too!

## The Unintended Consequences of Price Controls on Consumer Access to Credit

D. Dowd Muska, Patrick M. Brenner,
Jack Radomski & Brandt Kringlie

*In the end, we will remember not the words of our enemies, but the silence of our friends.*

– Martin Luther King, Jr.

This paper, in its entirety, can be found at **https://southwestpolicy.com/sppi04**

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# INTRODUCTION

The Southwest Public Policy Institute continues its ongoing probe of short- term, small-dollar lending. While the industry's products are regularly derided as "payday loans" and erroneously referred to as "predatory" by politicians, ideologues, and activists on both the left and the right, our research – building on the work of many others – offers a compelling counterweight to the one-sided narrative that dominates discussions. Herewith, we present the first update to the March 2023 policy investigation ***No Loan For You!***[1] As state and federal authorities grapple with usury and interest rate cap limitations due to advancements in financial technology, some states like New Mexico and Illinois are implementing solutions that exacerbate the issues they aim to address. We know that "well-intentioned interest rate caps can lead to less credit availability."[2] The "solution" is spreading, with South Carolina attempting passage of similar price control legislation this year. Three months ago, the Institute exposed the challenges faced by unbanked and underbanked borrowers in New Mexico, where a significant "reform" of short- term, small-dollar lending became law on January 1, 2023. Our investigation cut a new path in the state, with a "secret shopper" experiment originally focused on banks. Now, we include credit unions. In addition, we extend our inquiry of traditional banks to a new state, far from the Land of Enchantment in more ways than one. We begin with our latest results, from Minnesota.

## IT’S NOT JUST THE WEATHER

The project commenced in New Mexico, and we believe that one of the best ways to examine our findings there is to test our results in a very different state. So we picked Minnesota.

On the surface, the Land of Enchantment and the Gopher State have obvious differences, from temperature to international borders to time zones. But the greatest distinctions are found when one scrutinizes socioeconomic factors.

For the 2019-20 school year, the portion of “public school 9th-graders who graduate within 4 years of starting 9th grade with a regular diploma or, for students with the most significant cognitive disabilities, a state-defined alternate high school diploma” in New Mexico is 77 percent – tied with Arizona for the worst mark in the nation. Minnesota’s share was 84 percent.3 New Mexico’s violent-crime rate is three and a half times worse than Minnesota’s.4 There is not a dramatic disparity in the cost of living, median household income in the Gopher State is an impressive 43.8 percent higher.5 At 56.8 percent in April, New Mexico has one of the lowest labor force participation rates in America. Minnesota, at 68.1 percent, had one of the highest.6 The supplemental poverty rate – a figure that “extends the official poverty measure by taking account of many of the government programs designed to assist low-income families and individuals that are not included in the official poverty measure” – is 10.6 percent in New Mexico; in Minnesota, it is 5.1 percent.7

According to the U.S. Census Bureau, the share of the New Mexico population that is “Hispanic or Latino” is 50.1 percent, vs. 5.8 for Minnesota. The “American Indian and Alaska Native alone” cohort is 11.2 percent in New Mexico; in Minnesota, 1.4 percent. At 2.7%, the share of New Mexicans who are “Black or African American alone” is well under half the comparable figure for Minnesotans at 7.4%.8 Clearly, the states are about as different as they possibly could be.

Differences aside, states across the country are facing down an oncoming gale.

## YOU DON’T KNOW JACK (OR BRANDT)

Jack Radomski and Brandt Kringlie are undergraduates at the University of Minnesota. Like many college students, “well-qualified borrower” describes neither young man. Often burdened with education debt, limited work experience, low incomes from part-time jobs and/or student aid, and a lack of well-established credit history, young adults pursuing higher education are not desirable customers for most lenders.

But it's easy to envision scenarios in which Jack, Brandt, and their fellow students face financial crises – urgent automobile repairs, for example, or the need for unplanned travel due to an illness in the family. When bad luck strikes, what are their options?

For the Institute, Jack and Brandt attempted to secure short-term, small-dollar loans from various banks in the Minneapolis-Saint Paul metropolitan area. Both students visited four major lenders: U.S. Bank, Wells Fargo, Bank of America, and Huntington Bank. Both encountered difficulties and were ultimately unable to obtain the loans advertised by all four banks.

Jack's experience began at U.S. Bank, where he successfully opened a checking account but was deemed ineligible for a short-term, small-dollar loan due to his new-account status. At Wells Fargo, he faced challenges finding the Flex Loan option both on the website and app, leading to his inability to apply for it. Bank of America's Balance Assist loan also eluded Jack, as he was informed he would receive an email with further details, but no immediate approval was granted. Finally, at Huntington Bank, he discovered that he was not eligible for the Standby Cash program based on the absence of the option in his account's "Hub" section.

Similarly, Brandt's efforts were unsuccessful. At U.S. Bank, he encountered the most helpful assistance – but was ultimately denied a Simple Loan due to specific qualifications, such as the required length of account ownership and a sufficient number of direct deposits. Wells Fargo's Flex Loan remained elusive to Brandt as he couldn't find the loan option on the website and concluded that he did not meet the eligibility criteria.

Huntington Bank's Standby Cash Program was also unattainable for Brandt, as he couldn't locate the application option on his account and the bank's help tool proved unhelpful. Lastly, Bank of America's Balance Assist loan required a checking account duration of over a year, making Brandt ineligible despite successfully opening an account.

Both Jack and Brandt found jarring inconsistencies between the banks' advertisements and the actual requirements for accessing emergency loans. Their experiences mirrored that of Patrick Brenner, who failed to secure approval of a short-term, small-dollar loan at U.S. Bank, Wells Fargo, and Bank of America in the Albuquerque metro area.

Meanwhile, Patrick is still incurring monthly checking account maintenance fees from Bank of America, U.S. Bank, and Wells Fargo as he waits to establish a 12-month checking account history with those banks as the prerequisite for their emergency credit products. Those twelve months will result in incurred fees of $83.40 from U.S. Bank, $59.40 from Bank of America, and $129.12 from Wells Fargo. None of these fees will be included in the total cost of the sub-36% short-term loan, an unfair advantage leveraged by the banks to include margin-padding fees in ancillary products.

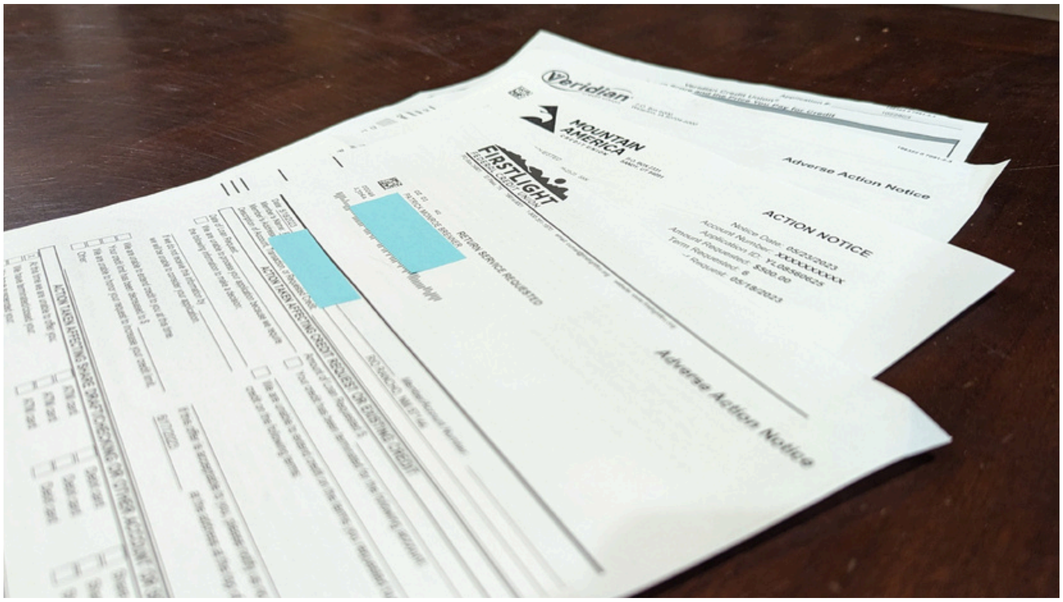
But unlike Jack and Brandt, Patrick is a married father of three with a mortgage, a full-time job, and a lengthy credit history. Thwarted by three major banks, he moved on to over a dozen local credit unions.

## MEMBERS ONLY

According to the National Credit Union Administration, a payday alternative loan (PAL) "is a free-market solution that responds to the need for small-dollar lending in the marketplace." PALs, the government bureaucracy claims, "can make a difference by helping borrowers build or repair credit records, allowing them to graduate to other mainstream financial products," encouraging "responsible lending that allows consumers to address immediate needs while working towards fuller financial inclusion."9

Over the course of three weeks, Patrick applied for a PAL from Guadalupe Credit Union, Otero Federal Credit Union, U-1st Community Federal Credit Union, Four Corners Credit Union, Everyone's Federal Credit Union, Internationalites Federal Credit Union, FirstLight Federal Credit Union, American Southwest Credit Union, Mountain America Credit Union, Del Norte Credit Union, Veridian Credit Union, U.S. Eagle Federal Credit Union, and Nusenda Credit Union. He's also an existing member of Navy Federal Credit Union and Pentagon Federal Credit Union, where membership is restricted to military personnel and their families.

Finding credit unions that offered PALs was burdensome. The results were disappointing. Patrick was successful only twice. U.S. Eagle Credit Union granted conditional approval pending established membership. Patrick was already a member at the other, Nusenda, with an auto loan in good standing for about 12




*Patrick's adverse action notices from the credit unions pile up.*

months at the time of his application.

Thirteen of the 15 credit unions – 86 percent – denied Patrick's loan application, do not offer a PAL, or denied his membership application. For Del Norte Credit Union, the denial occurred in a branch. When prompted for access to the PAL criteria, the banker was informed by a manager that the document was for "internal use only" but required existing membership for a considerable length of time and a corresponding checking account. Veridian Credit Union supplied an adverse action notice, citing "credit application incomplete" as the principal reason for denial. But the online application form for Veridian did not allow submission unless requisite form fields were completed, making the "credit application incomplete" result something of a mystery.

First Light Federal Credit Union sent an adverse action notice, citing "you are not eligible for membership in this credit union" as the principal reason for credit denial. Mountain America Credit Union's Adverse Action Notice spelled out a similar reason for denial: "credit application incomplete", and we surmise that the reason the applications are marked as incomplete is that Patrick was not an existing member of the credit union at the time the application was submitted. But it's anyone's guess.

American Southwest Credit Union (ASCU) only recognized that the application was transmitted: "Thank you for your application. A loan officer will need to review your application and contact you with any questions." That was the last correspondence Patrick received from ASCU, which was the same day he applied: May 18, 2023. Guadalupe Credit Union (GCU) responded similarly: "One of our loan officers will be in contact once your application has been reviewed." GCU was never heard from again.

Internationalites Federal Credit Union used membership criteria to exclude Patrick from loan options. "[M]embership is not open to the general public. Membership is only open to employees of the City of Carlsbad, Mosaic Potash Carlsbad Inc., Intrepid Potash and family members listed below." Everyone's Credit Union featured a less-than-stellar consumer experience: "You have followed an outdated link. Please return to https://www.everyonesfcu.com/ for home banking access."

The only bright, shining example was Nusenda. The application process was simple, transparent, and accessible. The rate was 17%. Repayment would occur in three payments over 90 days. Upon agreeing to the note and submitting the application, the loan funds were immediately available in Patrick's Nusenda savings account. It was a streamlined and hassle-free process.

But Nusenda was the exception to the rule.

And Patrick is also the exception to the rule: he's not unbanked or underbanked and was already a member at Nusenda for over a year, the only credit union where he definitively obtained a specialized emergency loan.

At the outset, he was by all measures both a well-qualified borrower and a customer of traditional banking. Yet he stands in stark contrast to the general population: in New Mexico's largest city, "**a third of the households** ... do little or no mainstream banking, substantially higher than the national average."10 So what if "six of the eight largest banks now offer affordable small loans"?11 One of every three families in Albuquerque doesn't use any bank at all.

So when Pew Charitable Trusts says "All payday loan borrowers are already bank or credit union customers with checking accounts," it's clear that they have rejected reality and substituted their own. But Pew also asked a great question: "What would consumers do if payday loans went away?"12 Their answer was dismally disappointing: "Choose other options such as asking friends".

Who are the actual borrowers? This is one of the most important questions of which to be cognizant when considering consumer access to specialized emergency credit. Policymakers are forgetting this.

## THE PERFECT STORM

Americans currently hold over $1 trillion in credit card debt, with the average interest rate on new cards reaching 24 percent, the highest since the Reagan era. The typical American household carries around $10,000 in credit card debt. Paying off this debt is challenging, with a monthly payment of $250 and 24 percent interest, taking until 2030 to repay and costing a total of $20,318, assuming the card is not used again. The nation's credit card debt has increased by $250 billion in two years, reaching $986 billion according to the Federal Reserve, although some estimates put it at $1.2 trillion.13 The pandemic initially led to a decrease in credit card balances, but spending has since increased, and the Federal Reserve has raised interest rates. Simultaneously, Americans have been depleting the savings that they accumulated during the pandemic as high prices and the end of relief programs have taken a toll on their finances. According to estimates from Goldman Sachs, Americans have already spent about 35% of the extra savings they acquired during the pandemic, and it is projected that by the end of the year, approximately 65% of that money will be exhausted. In 2020 and 2021, government stimulus and reduced spending allowed households to accumulate $2.7 trillion in extra savings, but the reversal of these factors, along with soaring inflation, has led to the depletion of savings for many households. As a result, people are cutting back on spending and relying on credit cards, while also tapping into their savings to stay afloat. Economists expect that the saving rate will rise modestly by the end of the year but emphasize the circumstances that caused the depletion of savings are unlikely to repeat. Lower-income households have been hit hardest, with their savings being depleted at a faster rate than higher-income households.14

## SHATTERING THE SPIN

The Pew Charitable Trusts, the Center for Responsible Lending (CRL), the National Community Reinvestment Coalition (NCRC), and the National Consumer Law Center (NCLC) have all presented a narrative that misrepresents the nature and impact of alternative financial institutions. These organizations seem intent on gaslighting specialized emergency lenders and distorting the reality of consumer lending options. It is important to address these misconceptions and exemplify the crucial role that alternative lenders play in meeting the credit needs of individuals facing financial challenges. When all else fails, manipulate the data. And that's exactly what they're doing. Pew's assertion that credit unions are providing small-dollar loans to more consumers than ever before is either based on a fundamental misunderstanding of the data or a compromising desire for it to be successful. Loan volume increased, but the number of loans issued by credit unions actually decreased by 7.3% in 2022 compared to 2019. The increase in loan volume was due to the average loan amount rising from $700 to $1,000.[15] Admittedly, this would allow credit unions to generate more revenue on the loan. The real question is, are credit unions ***actually*** fulfilling their missions as claimed in the Pew narrative? While many credit unions have offered low-cost, small-dollar loans in the past, members often chose other options due to the inconvenience, like in Patrick's experience, of in-person applications and uncertainty about eligibility and loan timing. Despite the increase in small-dollar lending by credit unions and the record volume achieved, only a limited number of credit unions currently offer automated small installment loans or lines of credit. In "pursuit of their mission", twelve credit unions have been piling on the adverse action notices, and it has taken its toll on Patrick's credit. Before undertaking this investigation, Patrick's credit score was over 800. As of June 9, it's 706. While the banks used alternative approval criteria for their short-term loan applications, the credit unions all subjected Patrick to hard credit inquiries, an effect that will last two years. The very people intended to be beneficiaries of the "protection" of interest rate caps have been left without access to credit previously relied on. These consumers are well-informed and often prefer the specialized financial products offered by alternative lenders. Rather than conveying the bigotry of low expectations, these consumers should be trusted with their own decisions.

## C ONC LU SION

A consumer credit crisis is looming: inflation is up, there are no more loans, there are no more savings. With an uncertain economic future, access to both specialized emergency credit and liquidity, in general, is more important now than ever before. Rather than inhibiting access to nontraditional credit options that activists simply don’t understand, the primary objective should be to expand choices for middle- and low-income families. Patrick, Brandt, and Jack have been met with frustration as they challenged themselves to capture a specialized emergency loan offered by ill-suited traditional financial institutions so often touted by anti-“predatory” credit alarmists. While P., B., and J. don’t actually need the loans, millions of other consumers do. Instead of borrowers being met with the product they know and want, the cancerous spread of rate caps and price controls has led to the only possible outcome: no loan for you, and no loan for you, too.

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Innovative Lending Platform Association

March 20, 2025

The Honorable Lyman Hoffman

Co-Chair
Senate Finance
Alaska State Legislature

The Honorable Donald Olson

Co-Chair
Senate Finance
Alaska State Legislature

The Honorable Bert Stedman

Co-Chair
Senate Finance
Alaska State Legislature

The Honorable Kelly Merrick

Vice Chair
Senate Finance
Alaska State Legislature

**Letter In Opposition to Senate Bill 39**

Dear members of the Senate Finance Committee, the Innovative Lending Platform Association (ILPA) writes to share our concern and opposition to Alaska Senate Bill 39 - the "True Lender Act," legislation that will hurt access to capital for Alaska small businesses and create severe risks to broader financial markets.

ILPA is the leading trade organization for online finance providers and service companies serving small businesses. Our members1 provide various innovative, digital commercial financing products. They proudly supply thousands of Alaska businesses with working capital to invest, purchase inventory, hire additional staff for the busy season, expand operations, or repair damaged or outdated equipment. Using innovative underwriting and advanced technology, our members assess credit risk and deliver financing in as little as 24 hours.

The U.S. lending market is a complex network of nationally chartered banks, state-chartered banks, non-bank lenders, third-party service providers, and financial technology companies. Millions of Americans' access to capital depends on a liquid credit market where financing providers can evaluate risk, provide small businesses with critically important capital, and sell loans on the secondary credit market to minimize risk to insured depository institutions.

[1] BackD Business Funding, Biz2Credit, Dedicated GBC, Fiserv, FundBox, iBusiness Funding, Lendio, Mulligan Funding, and OnDeck

In response, non-bank companies entered the market to help banks reduce the cost and risk of lending. They partnered with state and nationally chartered banks to provide much-needed capital quickly and meet customer expectations and new regulations.

We ask the Alaska legislature to reconsider how this bill will impact access to capital for small businesses. Transferring loans to non-bank entities is a fundamental aspect of banking that helps reduce risk and ensures that banks meet everyone's credit needs. Restricting this ability by requiring non-banks that acquire the predominant economic interest in loans to be licensed in the state and abide by the state's lending laws will lead to a less flexible and more fragile banking sector. Investors, debt collectors, and other entities that purchase loans on the secondary market are not lenders, and many may not get licensed in the state. This is detrimental to overall financial stability and could lead to higher borrowing costs and less capital available for Alaska consumers and small businesses.

We request the committee reject this bill because it will decrease access to capital and endanger the secondary credit market, a critically important part of our financial system.

Banks play a crucial role in loan origination and risk assessment. By upending this pillar of modern banking, the bill will weaken Alaskans' access to credit and restrict Alaskan banks' ability to offload even the most traditional loans to the secondary market for purchase and servicing.

Respectfully,

Scott Stewart
CEO
Innovative Lending Platform Association
631-678-8166

INFiN A Financial Services Alliance

February 18, 2025

Via Email to SLAC@AKLEG.GOV
The Honorable Jesse Bjorkman
Chair
Senate Labor & Commerce Committee
Alaska State Legislature

The Honorable Kelly Merrick
Co-Chair
Senate Labor & Commerce Committee
Alaska State Legislature

**Re: Comments on SB 39, "An Act relating to loans in an amount of $25,000 or less; relating to the Nationwide Multistate Licensing System and Registry; relating to deferred deposit advances; and providing for an effective date."**

Dear Chairman Bishop and Co-Chair Merrick:

On behalf of INFiN, a Financial Services Alliance ("INFiN"), we write in strong opposition to Senate Bill No. 39, which is on your agenda for first hearing on February 19, 2025. As the leading national trade association representing the diverse and innovative consumer financial services industry, INFiN comprises more than 300 member companies operating throughout the United States providing critical access to financial services to millions of Americans, particularly middle-income, working families. Our members span large companies with national reach to small "mom and pops," offering products and services to meet U.S. consumers' changing financial needs.

**INFiN urges the Committee to reject this bill, as it would deny Alaska residents access to the regulated, short-term, small-dollar credit on which they occasionally rely, decimate a regulated industry, and leave Alaskans with little or no recourse other than illegal lenders, many of which operate offshore and beyond the regulatory reach of state and federal agencies.** We further respectfully submit that the justifications offered for the proposed legislation misrepresent the true state of the consumer lending industry.

Regulated, community-based providers such as our members play a vital role in the lives and livelihoods of the many consumers and communities underserved, overlooked, or left behind by other financial institutions. **Amid clear financial needs, SB 39, would mandate what amounts to an arbitrary 36 percent Annual Percentage Rate (APR) cap on short-term, small-dollar "deferred deposit advance" loans offered by licensed consumer lenders – an effective ban of these loans.** If enacted, the bill would do nothing to address Alaskans' continued credit needs and financial insecurity, instead leaving vulnerable borrowers with little to no regulated alternatives.

**SB 39 is a ban on deferred deposit advance loans and a denial of access to credit**

INFiN strongly believes that a regulated small-dollar lending market is in the best interest of consumers, affording financial inclusion and consumer protections. Nearly every aspect of small-dollar lending is regulated at the state and federal levels, and our members – in Alaska and beyond – operate in strict compliance with all applicable laws as well as our own Best Practices, which impose limits on loan renewals. Alaska's existing deferred deposit advance statute features several effective guard rails while ensuring consumers can borrow when they need to.

It bears noting that deferred deposit advance loans are short-term credit products. As a result, APR does not accurately reflect the cost of a short-term, small-dollar loan repaid in a matter of weeks. Under a 36 percent rate cap, lenders would operate at a loss even before paying employee wages, rent, and other costs associated with running a trusted, regulated business. Under the proposed 36 percent interest rate cap, a lender's revenue on $100 would be just $1.38 – less than 10 cents a day on a two-week loan. No lender can afford to cover basic operating expenses at this rate without additional subsidy or without restricting access to borrowers with higher credit scores.

**Consequences of an arbitrary rate cap**

Many policymakers, think tank experts, independent researchers, and academics agree that a 36 percent rate cap is an effective ban on short-term, small-dollar credit – with detrimental consequences for consumers. In every state that has implemented an arbitrary interest rate cap like the one proposed in SB 39, licensed lenders offering short-term, small-dollar loans have been forced to close their doors, eliminating consumers' credit options and leaving them with little choice but to face the consequences of missed or late payments or the costs of more expensive, less regulated options. Recent Urban Institute research following Illinois' adoption of a 36 percent rate cap reveal not just the consequences of but the lack of clear benefit for consumers.

**In the absence of regulated small-dollar loans, the need for regulated credit would not be filled by banks or credit unions; representations to the contrary are not supported by the evidence.** While other lenders may technically offer loans for 36 percent or less, they often charge other fees not captured by the APR calculation. Although some credit union programs are touted as "alternatives" to small-dollar loans, they often involve a variety of restrictions such as membership in a credit union for a minimum period, existence of minimum account balances, and confusing fee structures, restricting these options to only a fraction of the Alaskans in need. They cannot be considered legitimate replacements for widely accessible, regulated, small-dollar loans, which would be eliminated by a rate cap.

Passage of this legislation would prohibit Alaskans from choosing the solutions that work best for them. Consumers deprived of regulated credit options would have little choice but to turn to unregulated sources, including illegal online loans offered by companies outside of the regulatory reach of state and federal agencies. As a result, the very consumers that the proposed legislation purports to protect would be exposed to unscrupulous lenders.

**High customer satisfaction, few complaints**

Borrowers appreciate regulated small-dollar loans for their simplicity, cost-competitiveness, and transparency, and consistently voice overwhelming satisfaction in customer surveys and online reviews. In research from Global Strategy Group (D) and Tarrance Group (R), 94 percent of those surveyed felt that small-dollar loans can be a sensible decision when consumers are faced with unexpected expenses, and 96 percent said they fully understood how long it would take to pay off their loan and the finance charges they would pay before taking out the loan. Regulated small-dollar loans are also the subject of very few consumer complaints. In 2023, just 0.1 percent of consumer complaints received by the Consumer Financial Protection Bureau ("CFPB"), our industry's federal regulator, were about small-dollar lenders.

**Conclusion**

Eliminating regulated credit options – as SB 39 would – does little to address Alaskans' need for credit or to ease the challenges they face. We urge you to reject this bill.

In addition to this testimony, the appendices to this letter include a document debunking some of the most concerning myths and misinformation spread about our industry, products, and customers, as well as the consequences of a rate cap (Appendix A) and INFiN's robust industry Best Practices, to which all members are held alongside compliance with applicable state and federal laws (Appendix B).

Thank you for your consideration of our position.

Executive Director
INFiN, A Financial Services Alliance

INFiN A Financial Services Alliance

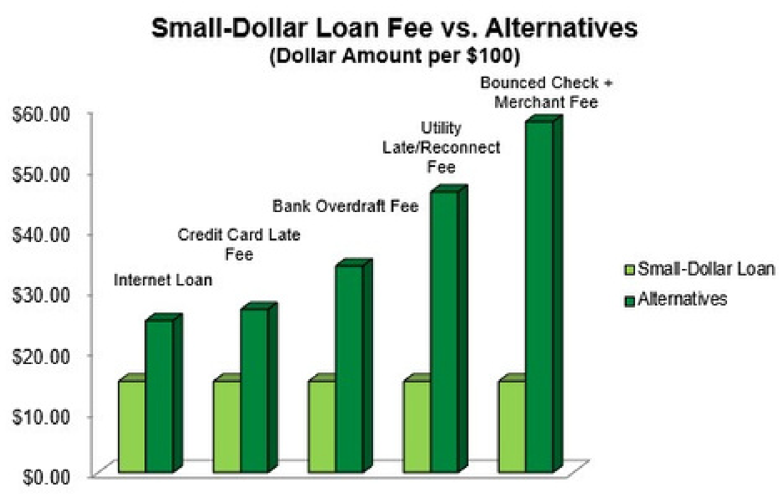
# APPENDIX A

# DISPELLING COMMON MYTHS: THE FACTS ABOUT INTEREST RATE CAPS ON SMALL-DOLLAR CREDIT

***Myth: Short-term, small-dollar credit options have unreasonably high interest rates.***

**FACT: Annual Percentage Rate (APR) is not an appropriate measure of the costs associated with short-term, small-dollar credit.**

- APR is not an appropriate measure of the costs associated with loans that last for less than a year, but rather is more accurate for long-term loans such as a mortgage or a car loan. The implied APR associated with short- term, small-dollar credit options equates to what a borrower would pay in fees if they renewed their loan every two weeks for a full year.
- When borrowing a small-dollar loan, consumers pay a set price for a short-term transaction. Customers appreciate that a small-dollar loan with a single payment, provided by a regulated consumer financial services provider, comes with a one-time fee – in Alaska, $15 per $100 borrowed as well as a $5 origination fee – which can be less expensive than the costs of overdrawing their account, missing a credit card payment, or neglecting a bill. The APR on a small-dollar loan decreases as the term lengthens; a small-dollar installment loan has a
- smaller
  implied APR than a two-week, small-dollar loan.
- Consumers in need of credit carefully weigh their options. Many choose small-dollar credit products from consumer financial services providers because they are straightforward, transparent, and often less costly than the alternatives.




***Sources: Consumer Federation of America Survey of Online Payday Loan Sites, 2011; CFPB CARD Act Report, 2013; CFPB Study of Overdraft Programs, 2013; Readex Research National Data on Short-Term Credit Alternatives, 2006; Bankrate.com Checking Account Survey, 2014; Moebs Services, 2012.***

*Myth: Small-dollar lenders could still operate profitably if they charged a much smaller APR.*

**FACT: Some critics have proposed capping interest rates for small-dollar lending services, but to do so would effectively ban short-term, small-dollar loans.**

- Lower fees would not generate enough income to pay for basic business expenses, such as rent, utilities, and wages.
- An APR of 36 percent on a two-week, small-dollar loan, as some industry critics have suggested, would mean customers pay a fee of $1.38 per $100 borrowed, or less than 10 cents per day.
- No market-based provider – not a credit union, not a bank, not a fintech – can sustainably lend short-term, small-dollar loans at that rate without being subsidized. Such rate cap models overlook the significant cost of operating a regulated business and would be an effective ban on small-dollar credit. Customers recognize that the
- price of the one-time fee is appropriate for a short-term, small-dollar loan, relative to other options.
- While some lenders claim to be able to operate under a 36 percent APR, the reality is that these providers serve a very different customer than the lenders that would be forced out of the market by a rate cap, typically only serving subprime customers – those with credit scores between 610 and 640 – whereas the average credit score for a person in need of non-bank credit is 579.
- Further, while these lenders may technically offer loans for 36 percent or less to a limited pool of subprime consumers, they often seek to evade this rate cap by offering expensive and unnecessary insurance products to their customers – services that are often implicitly positioned in loan agreements as required in order to qualify for the loan, and are not included in the loan's APR calculation.

| | With a fee of $15 per $100 | With a 36 percent rate cap |
|---|---|---|
| **Revenue, per $100 loan:** | $15.00 | $1.38 |
| **Costs, per $100 loan** | | |
| Operating expenses: | $9.41 | $9.41 |
| Bad debt expenses: | $3.74 | $3.74 |
| Costs of debt/equity capital: | $0.74 | $0.74 |
| **Total costs:** | $13.89 | $13.89 |
| **Pretax profit:** | $1.11 | -$12.51 |
| **Rational decision:** | provide loans | do not provide loans |

*Source: Ernst & Young, "The Cost of Providing Payday Loans in a US Multiline Operator Environment," 2009.*

*Myth: An APR cap does not eliminate consumers' ability to access credit.*

**FACT: Under an interest rate cap, many regulated providers are unable to continue to offer small-dollar loans. Many consumer financial services providers close their doors, leaving consumers to face the costs and consequences of unmet financial obligations and little choice but to turn to costlier, riskier options.**

- APR caps harm eliminate critical choices for thousands of people who need credit.

- Consumers’ need for credit does not disappear once these regulations are in place. Instead, they either cannot meet their financial obligations, or they are forced to choose costlier or less regulated options, such as unregulated loans or bankruptcy.
- Several states have implemented APR caps and other restrictions on small-dollar credit, resulting in serious consequences for consumers and their ability to access credit.
- Nine months after Illinois adopted a 36 percent interest rate cap in March 2021, nearly all licensed lenders had closed their doors as a result of the legislation.
  - Academic researchers examined the effects of the rate cap on the availability of credit and concluded the law significantly decreased credit options and worsened the financial well-being of many consumers.
  - A survey of former Illinois borrowers found that 79 percent would like the option to return to their previous lender if they had a funding need.
  - Recent research from the Urban Institute concluded that the Illinois rate cap had little to no impact on credit scores or the amount of debt in collections, suggesting the rate cap did not improve consumer welfare.
- After South Dakota implemented a 36 percent rate cap that effectively eliminated the state’s regulated small-dollar lending industry, a little over a year later, reports found that most small-dollar lenders did not renew their licenses. Pawn shops reported a rise in business.
- One year after Oregon implemented a 36 percent interest rate cap, 75 percent of Oregon’s 360 small-dollar lending stores closed their centers. Consumer complaints against unregulated Internet lenders doubled, and nearly 70 percent of such complaints filed in 2010 were against unregulated online lenders.
- A Federal Reserve Bank of New York study reported that people “bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 (‘no asset’) bankruptcy at a higher rate” after small-dollar lending was banned through interest rate caps in Georgia and North Carolina.

***Myth: A rate cap is in the best interest of consumers.***

**FACT: Even consumer advocates calling for an interest rate cap know a 36 percent rate cap will eliminate consumers’ access to regulated small-dollar credit.**

- In testimony, interviews, and other remarks, many proponents of interest rate caps have admitted that a rate cap is an effective ban on many forms of consumer credit. This finding is affirmed by researchers and evidence from states with rate caps.
- Some continue to advocate for this approach because they believe that some consumers shouldn’t have access to any form of credit. Others support rate caps because they benefit their own business objectives, positioning their services as more reputable while reducing competition.
- In their own words:
  - Pew Charitable Trusts:
    - “Restrictive states either do not permit payday lending or have price caps low enough to eliminate payday lending in the state. This rate cap often is 36 percent APR.”
    - “Small loans that reach the scale needed to compete with payday lenders, meaning they are available to a large share people who would otherwise turn to high-cost credit, will necessarily have all-in APRs over 36 percent.”
    - “Our research indicates a 36 percent interest rate and $20 application fee will be inadequate to support a robust small-loan program in a safe and sound manner.”
  - Gary Reeder, formerly with Financial Health Network and former CEO of the American Fintech Council:

    - “[T]here is often a trade-off between cost and availability. We encourage policymakers to allow institutions to experiment along the cost and availability spectrum, including for products with pricing above 36 percent APR. Policymakers should focus their efforts around understanding whether a product improves consumer outcomes in a measurable and demonstrable way rather than just filling immediate demand or meeting compliance requirements.”

  - National Association of Federally-Insured Credit Unions/Credit Union National Association
    - “A 36 percent annual percentage rate (APR) cap, however calculated, will mean financial institutions will be unable to profitably offer affordable small dollar loans to consumers. For a loan product to be sustainable, lenders must be able to recover costs. Costs include not only the cost of funds availability, but also costs related to compliance, customer service, IT, underwriting, administration, defaults, and, most notably – losses.”
  - Adam J. Levitin, Georgetown University Law Center
    - “The labor costs alone mean that it is not possible for a payday lender to profitably lend at anything close to 36% APR... And this is not counting other loan-specific costs — cost of funds and credit losses — or fixed and semi-variable expenses like rent, utilities, insurance, technology systems, advertising, customer service, and legal expenses, much less enough of a profit to attractive investment in the business.”
  - Robert Deyoung, Ronald J. Mann, Donald P. Morgan, and Michael Strain, Federal Reserve Bank of New York:
    - “…a 36 percent cap eliminates payday loans altogether. If payday lenders earn normal profits when they charge $15 per $100 per two weeks, as the evidence suggests, they must surely lose money at $1.38 per $100 (equivalent to a 36 percent APR)... In view of this, ‘36 percenters’ may want to reconsider their position, unless of course their goal is to eliminate payday loans altogether.”
  - Paige Skiba, Vanderbilt University:
    - “The typical interest rate caps implemented by policymakers are, in practice, no different than outright bans.”

***Myth: If an all-in 36 percent rate cap works for military servicemembers, it should work for all consumers.***

**FACT: The Military Lending Act (MLA) effectively ended small-dollar lending to U.S. servicemembers and their families.**

- In compliance with the MLA and its all-in 36 percent APR cap, regulated consumer financial services providers do not offer short-term, small-dollar loans to active-duty servicemembers.
- According to the Department of Defense (DoD) in its “Report on the Military Lending Act and the Effects of High Interest Rates on Readiness,” released June 30, 2021, "[F]inancial products such as payday loans and vehicle title loans…are effectively prohibited based on other provisions of the MLA."
- The Government Accountability Office (GAO) determined that the DoD report used to justify the MLA was flawed and urged caution in interpreting its findings and recommendations. Other studies, including from faculty at the U.S. Military Academy, have also concluded that the MLA’s measures to restrict servicemembers’ access to short-term, small-dollar loans may be unnecessary and excessive.
- After the adoption of the MLA’s APR cap, a number of reports – including from military aid societies – suggested that some servicemembers and military families have resorted to expensive programs offered by financial institutions, including "predatory or punitive overdraft practices."
- Another likely scenario is that many servicemembers are turning to unlicensed, unregulated lenders, as has been the case in every state with comparable restrictions.

## APPENDIX B

# INFiN BEST PRACTICES

**INFiN Members Must Abide by the Following Best Practices:**

1. **COMPLIANCE.** A Member will conduct its business in full compliance with all federal and state laws and regulations, including the Dodd-Frank Wall Street Reform and Consumer Protection Act, those applicable to federally registered Money Services Businesses ("MSB"), and all other applicable federal consumer financial laws. A member will not charge a fee or rate for a financial product or service that is prohibited by applicable law.

2. **LICENSING/REGISTRATION.** A member will register with the appropriate government agencies and hold and maintain all necessary business licenses to operate legally in the jurisdictions in which it offers financial products. A member that offers financial products through the Internet or other electronic modes shall be licensed or registered in each state where its customers reside (as required by applicable law) and shall comply with all requirements imposed by each such state.

3. **TRUTHFUL ADVERTISING AND FULL DISCLOSURE.** A member will not knowingly advertise a financial product or service in any unfair, deceptive, or false manner. Additionally, a member will fully disclose the fees and costs of financial products and services in a clear and conspicuous manner in compliance with all state and federal laws and regulations. A member will comply with the applicable disclosure requirements of each state in which its products and services are offered and with applicable federal disclosure requirements including the Federal Truth in Lending Act and the Electronic Fund Transfer Act (Regulation E).

4. **RESOLVING CUSTOMER COMPLAINTS.** Each member company shall maintain and post its own toll-free consumer hotline telephone number in each of its physical locations and on its website, as well as provide electronic means for consumers to submit complaints about a member company's product or service. A member commits to responding to and resolving consumer complaints in a timely and appropriate manner.

5. **MAINTAINING PRIVACY.** A member who possesses any non-public, personally-identifiable information about a consumer shall maintain the privacy of such information in accordance with all applicable state and federal privacy laws and regulations.

6. **APPROPRIATE COLLECTION PRACTICES.** A member must collect past due accounts in a professional, fair and lawful manner. A member will not use unlawful threats, intimidation, harassment, or the threat of criminal action to collect accounts. The collection limitations contained in the Fair Debt Collection Practices Act (FDCPA) should guide a member's practice in this area.

7. **INDUSTRY MONITORING.** A member will assist the Association in monitoring the industry and will be expected to report suspected violations of these Best Practices to the Association.

8. **VENDOR MANAGEMENT.** A member will manage its relationships with its outside vendors in order to promote compliance with all applicable laws and regulations and these Best Practices.

9. **SUPPORT BALANCED LEGISLATION.** A member will work with legislators and regulators to support responsible legislation and regulation of the industry that is consistent with these Best Practices.

10. **DISPLAY OF THE MEMBERSHIP SEAL.** A member shall prominently post the Association Membership Seal in all stores and on all member websites to alert customers to the member's affiliation with the Association and adherence to the Association's Best Practices.

11. **SMALL-DOLLAR LOANS.** Members that offer small-dollar loan products ("small-dollar loans"), including single payment loan products ("single payment loans") and multi-payment products ("installment loans"), shall abide by the following additional Best Practices:

a. **REQUIRED DISCLOSURE.** For all small-dollar loans, a contract between a member and the customer must fully and completely set forth the terms of the transaction. Members shall disclose the cost of the service fee both as a dollar amount and as an annual percentage rate ("APR") in accordance with the Federal Truth in Lending Act, and other applicable law.

b. **ENCOURAGE CONSUMER RESPONSIBILITY.** A member will implement procedures to inform consumers of the appropriate and responsible use of small-dollar loans. These procedures may include the placement of a "Customer Notice" in the form provided below or substantially similar, on all marketing materials.

***CUSTOMER NOTICE:*** *There are a wide variety of financial products available in the marketplace, so your choice should match your financial needs. Small-dollar loans used over a long period of time can be expensive.*

c. **RESPONSIBLE REPAYMENT OF SINGLE PAYMENT LOANS.** For an unsecured single payment loan, a member shall comply with state law regarding repayment. In such cases where rollovers are authorized, a member will limit rollovers of an unsecured single payment loan to four (4) or the state limit where not otherwise limited by law. (A rollover is the extension of an outstanding advance by payment of only a fee.)

d. **AMORTIZATION OF INSTALLMENT LOANS.** A member shall ensure that all unsecured installment loan products provide customers with a structure to reduce the principal balance over the term of the loan.

e. **EXTENDED PAYMENT PLAN -- SINGLE PAYMENT LOANS.** For a single payment loan, a member will make available to customers who are unable to repay according to the original contract terms, the option of repaying the loan over a longer period ("Extended Payment Plan") unless otherwise prohibited by state law. Such an Extended Payment Plan will be offered in compliance with any requirement in state law to provide an Extended Payment Plan or, in the absence of such a requirement in state law, in compliance with the Association's Best Practice "Guidelines for Extended Payment Plans." A member will adequately disclose the availability of the Extended Payment Plan to its customers in compliance with any requirement in state law for such a disclosure or, in the absence of such a requirement in state law, in compliance with the Association's Best Practice "Guidelines for Extended Payment Plans."

f. **DEFERRED PAYMENT(S) INSTALLMENT LOANS.** A member that offers an installment loan shall ensure that a consumer who is unable to repay in a timely manner may be afforded options to deferred payment(s) in compliance with applicable State law without incurring prohibitive costs or penalties.

g. **USE OF AUTOMATED CLEARING HOUSE (ACH) SYSTEM.** A Member will comply with all Rules of the National Automated Clearing House Association (NACHA), and any additional law or regulation related thereto, when using the ACH system.

h. **MILITARY.** To the extent that any member does business with a Military "Covered Person" as defined by federal law, members will comply with all federal and state laws applicable to doing business with the military and related "Covered Persons."

i. **RIGHT TO RESCIND.** Unless state law requires otherwise, a member will give its customers the right to rescind a loan, at no cost, on or before the close of the following business day.

j. **ABILITY TO REPAY.** A member, before extending credit, shall undertake a reasonable, good-faith effort to determine a customer's ability to repay the loan.

*INFiN Best Practices are intended to cover all small-dollar loans made by members to the fullest extent that such practices are allowed by applicable laws and regulations. State or local laws and regulations may not permit implementation of some Best Practices for certain types of small-dollar loans.*

February 18, 2025

The Honorable Jesse Bjorkman
Chair
Senate Labor and Commerce
Alaska State Legislature

The Honorable Kelly Merrick
Vice Chair
Senate Labor and Commerce
Alaska State Legislature

*Re: Comments on SB 39, "An Act relating to loans in an amount of $25,000 or less; relating to the Nationwide Multistate Licensing System and Registry; relating to deferred deposit advances; and providing for an effective date."*

Dear Chair Bjorkman:
The Online Lenders Alliance (OLA) would like to provide the following comments and data in

opposition to SB 39*, legislation that would repeal the state's deferred deposit statute and impose a new predominant economic interest (PEI) standard on certain bank loans.*

OLA represents the growing industry of innovative companies focused on credit inclusion and financial solutions for all Americans through a common goal: to serve hardworking Americans who deserve access to trustworthy credit. Consumer protection is OLA's top priority and members abide by a rigorous set of Best Practices to ensure consumers are fully informed and fairly treated.1
Alaskans Need Access to Credit Options and Choices
The cornerstone of financial inclusion is the opportunity and ability to access credit, which leads to more independence for borrowers by providing them more control over their own financial health. The reality, however, is that not everyone has equal access to credit, despite the fact that so many Americans need credit, oftentimes unexpectedly. According to the most recent federal data, nearly 19 percent of households in Alaska are unbanked or underbanked.2 Looking more closely at the data, the rate among Black residents and Alaska Natives is 40 and 47 percent respectively for each.3 Furthermore, 31 percent of Alaska consumers are credit

[1] OLA Best Practices https://onlinelendersalliance.org/best-practices/
[2] https://www.fdic.gov/household-survey/2023-fdic-national-survey-unbanked-and-underbanked-households-appendix-tables
[3] https://scorecard.prosperitynow.org/data-by-location#state/ak

constrained, meaning that they are borrowers with limited credit history or poor/fair credit scores.4

Traditional banks and credit unions provide an essential service in the financial marketplace, but consumers are limited to the offerings of those financial institutions that are geographically accessible to them. The hardship of these limited options is significant in states like Alaska with its many remote communities. Many consumers turn to alternative lenders for small-dollar loan products because they are unable to obtain these products from other financial institutions. And today, financial technology companies increasingly offer services that enable banks – especially community banks – to expand the populations they serve and fill the gaps left in the market without being dependent on a physical branch. This means that Alaska consumers have more options and choices available to them when deciding how to best meet their financial needs. SB 39 will take away many of the credit options available to Alaskans and limit their financial choices. SB 39 is Modeled on Illinois' Failed Legislation That Limits Credit When states eliminate small-dollar credit options, their residents lose. , In March 2021, Illinois enacted a 36 percent interest rate cap with a new predominant economic interest (PEI) test similar to what's being proposed in Alaska's SB 39. By 2024, lender licenses decreased by 64 percent.5 An academic study released following the Illinois law by three leading economists found that it decreased the number of loans to subprime borrowers by 44 percent while increasing the average loan size to subprime borrowers by 40 percent .6

The aforementioned study also included data from an OLA survey of previous borrowers who had taken out loans with APRs exceeding 36 percent; the survey showed that most of those borrowers have since been unable to borrow money when they needed it, with 80 percent of respondents wanting the option to return to their previous lender , most of whom are no longer in the marketplace. OLA is the only organization that surveyed the very borrowers who had actually used small dollar loans in Illinois before the law went into effect to better understand the law's impact.7

Unlike Alaska, Illinois is a densely populated state with a large number of banks and credit unions, yet their residents still experienced a sharp reduction in access to credit. Enacting the same law in Alaska could generate even worse outcomes. Alaska should not adopt Illinois' failed legislation that directly hurt those who struggle to make ends meet and depend on access to credit.

Like the Failed Illinois Law, the Military Lending Act is a Flawed Model

[4] https://scorecard.prosperitynow.org/data-by-location#state/ak

[5] https://onlinelendersalliance.org/three-years-into-illinois-rate-cap-lender-licenses-are-down-64-percent-highlighting-how-rate-cap-has-significantly-diminished-consumers-access-to-credit/

[6] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4315919

[7] Ibid.

Proponents of rate caps and restrictions on credit products defend the enactment of credit restrictions to nonprime consumers by touting the Military Lending Act (MLA), which imposes an artificially restrictive 36 percent rate cap on military servicemembers and covered dependents. However, researchers at the Urban Institute recently found that the credit restrictions of MLA "did not lead to better credit and debt outcomes for service members most likely to be affected by this policy. For the most vulnerable individuals—those with deep subprime credit scores—the policy may have had negative effects by limiting their access to credit." They therefore concluded that "extending the consumer protections of the expanded MLA, including the 36 percent APR cap, to revolving credit products available to all borrowers would not be an effective way of improving the credit health of most Americans."8

Conclusion The aim of a vibrant market system is to allow for competition which gives the consumer more offerings and the best deal regardless of where they are located. Unfortunately, SB 39 will reduce credit options and restrict financial choices for Alaskans. We oppose SB 39 and respectfully ask the Committee to reject this proposal. Reducing credit options will have negative ramifications for Alaskans – as demonstrated by the data from Illinois. Creating a credit marketplace that is attractive to more lenders, more options, and more choice is a policy that would benefit Alaskans. Specifically, creating a better market for installment loan products would create competition around the limited array of products that are available today without reducing options in the process . We welcome the opportunity to work with members of the Alaska State Legislature to pursue meaningful alternatives to those currently contained in SB 39.

Sincerely,

Andrew Duke,
CEO
Online Lenders Alliance
Cell: 571-420-8366

CC:

The Honorable Eliv Gray-Jackson
The Honorable Forrest Dunbar
The Honorable Robert Yundt

[8] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3505440

The Honorable Forrest Dunbar
Alaska State Capitol
120 4th Street Rm 125
Juneau, AK 99801

February 19, 2025

Re: Senate Bill 39 relating to loans in an amount of $25,000 or less *et al.*

Dear Senator Dunbar,

We write on behalf of the American Financial Services Association (AFSA)1 to express our serious concerns about Senate Bill 39. 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 39 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 39 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.

## The Dangers of Non-TILA APR

SB 39 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

[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 "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 39 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 39, 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 39) 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 39 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

[2] The Role of Emergency Savings in Family Financial Security (Pew) (2016)
[3] Credit Insurance Delivers Peace of Mind (CCIA)

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 39, 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 39 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 39 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 39 would be a radically reduced financial capability for hardworking Alaskans and their families, disproportionately affecting low-income and minority 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.

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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

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 39, 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 39 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,

Elora Rayhan

Elora Rayhan
State Government Affairs
American Financial Services Association
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[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 presumedly 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

1 Source: Illinois Trends Report 12/20/2022 A Resolution Promoting Safe and Affordable
0 Lending Practices (NBCSL) https://www.cbcinstitute.org/21stcenturycouncil The Effects of
1 APR Caps and Consumer Protections on Revolving Loans (Urban Institute)

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Consumers' Research
established 1929

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February 19, 2025

The Honorable Jesse Bjorkman
Chair
Senate Labor and Commerce Committee
Alaska State Senate
Juneau, AK 99801

The Honorable Kelly Merrick
Vice Chair
Senate Labor and Commerce Committee
Alaska State Senate
Juneau, AK 99801

The Honorable Elvi Gray-Jackson
Senate Labor and Commerce Committee
Alaska State Senate
Juneau, AK 99801

The Honorable Forrest Dunbar
Senate Labor and Commerce Committee
Alaska State Senate
Juneau, AK 99801

The Honorable Robert Yundt
Senate Labor and Commerce Committee
Alaska State Senate
Juneau, AK 99801

Dear Chair Bjorkman, Vice Chair Merrick, Senator Gray-Jackson, Senator Dunbar, and Senator Yundt:

Alaska legislators are considering SB 39, a bill that adds new restrictions to consumer lending, including the imposition of an all-in 36 percent interest rate cap. The measure would mean that lenders would be prohibited from offering loans, regardless of their length or the risk posed by the borrower, with a rate above 36 percent, including fees, which the law interprets as adding to the financing cost.

Lawmakers have proposed similar bills that simply run afoul of the research. About three years ago, Illinois lawmakers presumably thought they were helping borrowers by limiting the all-in rates lenders could charge as well. But did they? Did this rate cap improve consumer welfare and protect the underprivileged from so-called predatory lenders? And, importantly, did this rate cap make small-dollar loans more affordable?

Working with a fellow academic (Brandon Bolen) and an economist from the Federal Reserve (Greg Elliehausen), we addressed these questions and other findings in a recent study. In that study, we documented the measurable effects on Illinois borrowers after the 36 percent all-in rate cap went into effect.

We examined the number and size of unsecured installment loans over a twelve-month period—six months before the imposition of the all-in cap and six months after. We sorted credit bureau

Consumers' Research established 1929

data into credit score buckets by county or county groups for Illinois and Missouri, which we chose as a comparison state because it had no legislated rate cap. In Missouri, the competitive market sets borrowing rates.

Basic economic theory predicts that interest rate caps have effects that differ across groups of borrowers. A rate cap will affect borrowers with poor credit differently than those with a strong credit history. In our study, we found that the all-in 36 percent rate cap impacted subprime borrowers, those with credit scores below 600, most significantly.

Using widely accepted, well-known statistical techniques, we estimated how the number of loans made after the cap was imposed and compared it to an estimated number of loans that would have been made without the cap. According to our model, in the period following the imposition of the 36 percent cap, the number of loans to subprime borrowers fell by 38 percent. Meanwhile, the average loan size increased by 35 percent from where it would have been without the cap.

Additionally, we estimated that the total dollars loaned to subprime borrowers fell about 14 percent, or about $26 million. The deepest subprime borrowers, those with the fewest credit alternatives, were the most affected: the dollars lent to them fell by about 26 percent. This amount may sound trivial to some; however, this amount of money is significant to the Illinois families denied access to credit. We estimated that roughly 34,000 Illinois families now have even fewer credit options because they lost access to unsecured installment loans.

We also examined the results of a survey of actual installment loan borrowers in Illinois who lost access to credit after the 36 percent rate cap imposition. Ninety-three percent of the respondents said their pre-cap loans helped them manage their financial situation. Seventy-nine percent of borrowers surveyed responded that they would like the option to return to their previous lender operating under pre-cap conditions.

The proponents of an all-in 36 percent rate cap may all think they are doing a great thing for working families, but their good intentions stand in stark contrast to the cold facts observed when rate caps like the one they propose, have been imposed. Legislators claim they care about consumers who are struggling financially, but if their struggles lead them to miss payments and pay bills late, the result is a lower credit score, further limiting their access to credit. Such was the case when Illinois instituted its version of Alaska's proposed rate cap, which harmed Illinois borrowers with low credit scores while providing additional credit access to borrowers with higher credit scores.

I urge you to study the actual impacts of imposing this rate cap and I urge you to look for other ways to measure the cost of short-term loans before you move forward. Imposing an interest rate cap has actual effects that differ from the intentions of lawmakers. A 36% all-in interest rate cap is especially harmful to the very consumers the law is intended to protect.

DEFENDING CONSUMERS

Consumers' Research
established 1929

For example, a one-year, $1,000 installment loan at a 36% all-in rate has a monthly payment of about $100. Thus, the lender receives $200 on the $1,000 principal, i.e., not $360. If the rate is doubled to 72%, the payment increases to about $120 month, or about $5 more per week. In this case, the lender receives about $440 on the $1,000 principal. Rates like 36% and 72% sound jarring, but I urge you to think in terms of dollar amounts paid for the loan.

Suppose an Alaskan has a need for a $1,00 loan. Installment lenders will likely not make $1,000 loans under a 36% all-in cap. The $200 received on this repaid loan is not enough revenue to cover operating costs as well as the cost of loans that are not repaid. The net effect is that the cap will legislate $1,000, and smaller, loans out of existence. Some Alaskans will lose access to installment credit, but they still need credit. Where will they go?

Sincerely,

Tom Miller Jr., PhD
Professor of Finance and Jack R. Lee
Chair in Financial Institutions and Consumer Finance
Mississippi State University College of Business
Senior Research Fellow
Consumers' Research

Cc:

The Honorable Cathy Giessel, Majority Leader, Alaska State Senate
The Honorable Gary Stevens, President, Alaska State Senate
The Honorable Mike Shower, Minority Leader, Alaska State Senate

DEFENDINGCONSUMERS

Innovative Lending Platform Association

February 18, 2025

The Honorable Jesse Bjorkman
Chair
Senate Labor and Commerce
Alaska State Legislature

The Honorable Kelly Merrick
Vice Chair
Senate Labor and Commerce
Alaska State Legislature

**Letter In Opposition to Senate Bill 39**

The Innovative Lending Platform Association (ILPA) writes to share our concern and opposition to Alaska Senate Bill 39 - the "True Lender Act," legislation that will hurt access to capital for Alaska small businesses and create severe risks to broader financial markets.

ILPA is the leading trade organization for online finance providers and service companies serving small businesses. Our members1 provide various innovative, digital commercial financing products. They proudly supply thousands of Alaska businesses with working capital to invest, purchase inventory, hire additional staff for the busy season, expand operations, or repair damaged or outdated equipment. Using innovative underwriting and advanced technology, our members assess credit risk and deliver financing in as little as 24 hours.

The U.S. lending market is a complex network of nationally chartered banks, state-chartered banks, non-bank lenders, third-party service providers, and financial technology companies. Millions of Americans' access to capital depends on a liquid credit market where financing providers can evaluate risk, provide small businesses with critically important capital, and sell loans on the secondary credit market to minimize risk to insured depository institutions.

One of the primary causes of the Great Recession was depository institutions carrying too many loans on their balance sheets with a high risk of default and a low chance of payback. In the post-Great Recession world, national and state bank regulators recognized the risks of these loans to bank balance sheets and the broader U.S. financial ecosystem. They tightened requirements on banks to prevent lenders from overextending credit and tightened access to capital for American consumers and small businesses, further hurting the U.S. economy. Small business owners, underserved and underbanked populations, rural residents, agricultural-based businesses, and minorities faced increasing difficulty meeting their credit needs from traditional banks.

[1] BackD Business Funding, Biz2Credit, Dedicated GBC, Fiserv, FundBox, iBusiness Funding, Lendio, Mulligan Funding, and OnDeck

In response, non-bank companies entered the market to help banks reduce the cost and risk of lending. They partnered with state and nationally chartered banks to provide much-needed capital quickly and meet customer expectations and new regulations.

We ask the Alaska legislature to reconsider how this bill will impact access to capital for small businesses. Transferring loans to non-bank entities is a fundamental aspect of banking that helps reduce risk and ensures that banks meet everyone's credit needs. Restricting this ability by requiring non-banks that acquire the predominant economic interest in loans to be licensed in the state and abide by the state's lending laws will lead to a less flexible and more fragile banking sector. Investors, debt collectors, and other entities that purchase loans on the secondary market are not lenders, and many may not get licensed in the state. This is detrimental to overall financial stability and could lead to higher borrowing costs and less capital available for Alaska consumers and small businesses.

We request the committee reject this bill because it will decrease access to capital and endanger the secondary credit market, a critically important part of our financial system.

Banks play a crucial role in loan origination and risk assessment. By upending this pillar of modern banking, the bill will weaken Alaskans' access to credit and restrict Alaskan banks' ability to offload even the most traditional loans to the secondary market for purchase and servicing.

Respectfully,

Scott Stewart
CEO
Innovative Lending Platform Association
631-678-8166

February 23, 2025

Senate Labor and Commerce Committee
Alaska State Legislature
Alaska State Capitol
120 4th Street
Juneau, AK 99801

Subject: Opposition to Senate Bill 39 Based on Empirical Research and Consumer Credit Concerns

Honorable Members of the Alaska State Legislature,

As President of the Southwest Public Policy Institute, I am dedicated to advancing policies that ensure financial health and equitable access to credit. I am writing to express strong concerns regarding Senate Bill 39, which seeks to impose a 36% rate cap on consumer credit products. While well-intended, this measure risks cutting off access to essential financial tools for Alaskans, particularly low-income and underbanked consumers, as demonstrated by our extensive research.

Our studies, No Loan For You! and No Loan For You, Too!, document the real-world consequences of similar rate caps, particularly in New Mexico, where borrowers have faced shrinking credit options and increasing financial distress. Rather than benefiting consumers, such restrictions have forced them into costlier, less regulated alternatives.

A key finding from our research is that traditional financial institutions—both banks and credit unions—have failed to provide viable alternatives to the products eliminated by rate caps. Our consumer emulation studies highlight these failures in action. For example, Wells Fargo's highly publicized Flex Loan program claims to offer emergency credit, yet our investigation revealed it to be inaccessible to many consumers due to unclear eligibility requirements, arbitrary account closures, and a lack of transparency in the approval process. Consumers seeking short-term loans through Wells Fargo often find themselves caught in a bureaucratic maze with no clear path to approval.

Similarly, our research into credit union lending shows that Payday Alternative Loans (PALs) are largely unavailable to the consumers they are supposed to serve. We tested 15 credit unions in New Mexico, and 86% either denied membership, lacked small-dollar loan programs, or imposed such restrictive requirements that the loans were effectively inaccessible. Even for a well-qualified borrower with an established financial history, obtaining a small-dollar loan from these institutions proved nearly impossible.

These findings underscore a crucial reality: when policymakers cap interest rates, they do not eliminate demand for small-dollar loans—they only eliminate legal, regulated sources of credit. Consumers unable to obtain credit from traditional lenders are left with few options beyond overdraft fees, pawnshops, or unregulated lenders, all of which can be far costlier than the products rate caps seek to eliminate.

In states like Illinois, where similar legislation has been enacted, the data confirm this outcome. Consumers report increased difficulty in managing financial emergencies, and many have been pushed into higher-cost alternatives that ultimately worsen their financial standing.

Although Senate Bill 39 aims to protect consumers, it risks replicating these negative consequences in Alaska. The bill does not account for the diverse credit needs of Alaskan residents, particularly those in rural or underserved areas where traditional banking services are scarce. Instead of a one-size-fits-all rate cap, I urge the Committee to explore more flexible regulatory frameworks that both safeguard consumers from predatory practices and preserve their access to essential credit.

As an advocate for financial inclusion, I strongly recommend that the Committee reconsider SB 39 in light of these findings. Protecting consumer access to responsible, regulated lending options is critical to the financial well-being of Alaskan families and communities.

Thank you for your time and consideration. I welcome the opportunity to discuss these findings further and provide additional research to support consumer-focused policy solutions.

Sincerely,

Patrick M. Brenner
President, Southwest Public Policy Institute

[Attachments: Research Reports "No Loan For You!" and "No Loan For You, Too!"]

OneMain Financial.
Better Borrowing. Brighter Future.

February 25, 2025

**Re: AK SB39: Relating to Loans of $25,000 or Less**

Chairmen Hoffman, Olson, Stedman and Members of the Senate Finance Committee, On behalf of OneMain Financial, thank you for the opportunity to comment on Senate Bill 39. OneMain Financial, which has operated for more than 100 years, is a nonbank lender that helps hardworking consumers meet their financial needs through traditional installment loans and other credit products. OneMain operates nearly 1,300 branches in 44 states and has extended nearly $23B in credit to our more than 2.5 million current customers. Unlike many lenders, OneMain chooses to never exceed 35.99% APR, even in states that permit interest well above 36%.

Our installment loans are fully underwritten with amortized payments that help customers successfully repay their loans in affordable monthly payments. This approach is why more than 90% of our customers successfully repay their loans. Unfortunately, Alaska's current rate structure limits our ability to provide much-needed credit to Alaskans. We support Senate Bill 39's simplification of the rate structure, which could result in increased competition in the marketplace and more options for nonprime consumers. We are concerned, however, that Senate Bill 39 utilizes a unique "all-in" rate calculation that includes elements unrelated to the cost of credit. This unique calculation will cause much confusion and implementation issues, especially for lenders who operate in other states. However, the Federal Truth In Lending Act (TILA), adopted in 1968, provides for a standard TILA rate calculation, which includes all mandatory charges required to receive a loan. This gives borrowers the true cost of credit. In certain cases, courts and regulators have prohibited lenders from advertising and disclosing APRs inconsistent with this method as it undermines the universality of the term and may confuse consumers. Additionally, the "all-in" APR method limits access to ancillary products for consumers who may desire to protect their loan in the case of unexpected unemployment or other unforeseen events. The vast majority of states, as well as federally and nationally chartered depository institutions, utilize the TILA APR.

If passed, Senate Bill 39 would significantly alter the lending environment in Alaska. Although some lenders may be unable to operate under the new rate structure, amending SB 39 to include a standard TILA rate calculation would attract new lenders like OneMain to enter the state and meet the needs of these nonprime consumers.

We appreciate your consideration. Please contact the undersigned with any questions.

Sincerely,

Ryan Black

Ryan Black
Vice President/Director of Government Relations
ryan.black@omf.com
812-492-2186

March 19, 2025

The Honorable Lyman Hoffman
Co-Chair
Senate Finance Committee
Alaska State Legislature

The Honorable Donald Olson
Co-Chair
Senate Finance Committee
Alaska State Legislature

The Honorable Bert Stedman
Co-Chair
Senate Finance Committee
Alaska State Legislature

*Re: Comments on SB 39, "An Act relating to loans in an amount of $25,000 or less; relating to the Nationwide Multistate Licensing System and Registry; relating to deferred deposit advances; and providing for an effective date."*

Dear Co-Chairs Hoffman, Olson and Stedman:
The Online Lenders Alliance (OLA) would like to provide the following comments and data in opposition to SB 39,*legislation that would repeal the state's deferred deposit statute and impose a new predominant economic interest (PEI) standard on certain bank loans.*

OLA represents the growing industry of innovative companies focused on credit inclusion and financial solutions for all Americans through a common goal: to serve hardworking Americans who deserve access to trustworthy credit. Consumer protection is OLA's top priority and members abide by a rigorous set of Best Practices to ensure consumers are fully informed and fairly treated.[1]

## Alaskans Need Access to Credit Options and Choices

The cornerstone of financial inclusion is the opportunity and ability to access credit, which leads to more independence for borrowers by providing them more control over their own financial health. The reality, however, is that not everyone has equal access to credit, despite the fact that so many Americans need credit, oftentimes unexpectedly. According to the most recent federal

[1] OLA Best Practices https://onlinelendersalliance.org/best-practices/

data, nearly 19 percent of households in Alaska are unbanked or underbanked.[2] Looking more closely at the data, the rate among Black residents and Alaska Natives is 40 and 47 percent respectively for each.[3] Furthermore, 31 percent of Alaska consumers are credit constrained, meaning that they are borrowers with limited credit history or poor/fair credit scores.[4] It's also notable that Alaskans have the highest average credit card balance in the United States ($8077), and they have the second-highest credit card utilization rate in the country[5]. All of this points to a scenario where Alaskans are more dependent on their credit cards than other Americans - ultimately paying more in interest and fees.

Traditional banks and credit unions provide an essential service in the financial marketplace, but consumers are limited to the offerings of those financial institutions that are geographically accessible to them. Small dollar credit from banks and credit unions is not widely available, and the stringent eligibility requirements further dimmish its utilization. The hardship of these limited options is significant in states like Alaska with its many remote communities. Many consumers turn to alternative lenders for small-dollar loan products because they are unable to obtain these products from other financial institutions. And today, financial technology companies increasingly offer services that enable banks – especially community banks – to expand the populations they serve and fill the gaps left in the market without being dependent on a physical branch. This means that Alaska consumers have more options and choices available to them when deciding how to best meet their financial needs. SB 39 will take away many of the credit options available to Alaskans and limit their financial choices.

SB 39 is Modeled on Illinois' Failed Legislation That Limits Credit

When states eliminate small-dollar credit options, their residents lose. In March 2021, Illinois enacted a 36 percent interest rate cap with a new predominant economic interest (PEI) test similar to what's being proposed in Alaska's SB 39. By 2024, lender licenses decreased by 64 percent.[6] An academic study released following the Illinois law by three leading economists found that it decreased the number of loans to subprime borrowers by 44 percent while increasing the average loan size to subprime borrowers by 40 percent.[7]

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[2] https://www.fdic.gov/household-survey/2023-fdic-national-survey-unbanked-and-underbanked-households-appendix-tables

[3] https://scorecard.prosperitynow.org/data-by-location#state/ak

[4] https://scorecard.prosperitynow.org/data-by-location#state/ak

[5] https://www.experian.com/blogs/ask-experian/state-of-credit-cards/ According to Experian, a consumer's credit utilization ratio is the amount of revolving credit they're using divided by the total amount of revolving credit they have available. It's expressed as a percentage, and it can be an important factor in credit scores. In general, lower utilization rates can improve credit scores, which can in turn make it easier to secure additional credit with favorable terms.

[6] https://onlinelendersalliance.org/three-years-into-illinois-rate-cap-lender-licenses-are-down-64-percent-highlighting-how-rate-cap-has-significantly-diminished-consumers-access-to-credit/

[7] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4315919

The aforementioned study also included data from a survey of previous borrowers who had taken out loans with APRs exceeding 36 percent; the survey showed that most of those borrowers have since been unable to borrow money when they needed it, with 80 percent of respondents wanting the option to return to their previous lender, most of whom are no longer in the marketplace. OLA is the only organization that surveyed the very borrowers who had actually used small dollar loans in Illinois before the law went into effect to better understand the law's impact.[8]
Unlike Alaska, Illinois is a densely populated state with a large number of banks and credit unions, yet their residents still experienced a sharp reduction in access to credit. Enacting the

same law in Alaska could generate even worse outcomes. Alaska should not adopt Illinois' failed legislation that directly hurt those who struggle to make ends meet and depend on access to credit.

Like the ~~Failed Illinois Law, the Military Lending Act is a Flawed Mo~~del

Proponents of rate caps and restrictions on credit products defend the enactment of credit restrictions to nonprime consumers by touting the Military Lending Act (MLA), which imposes an artificially restrictive 36 percent rate cap on military servicemembers and covered dependents.
However, researchers at the Urban Institute recently found that the credit restrictions of MLA "did not lead to better credit and debt outcomes for service members most likely to be affected by this policy. For the most vulnerable individuals—those with deep subprime credit scores—the policy may have had negative effects by limiting their access to credit." They therefore concluded that "extending the consumer protections of the expanded MLA, including the 36 percent APR cap, to revolving credit products available to all borrowers would not be an effective way of improving the credit health of most Americans."[9]
Conclusion The aim of a vibrant market system is to allow for competition which gives the consumer more offerings and the best deal regardless of where they are located. Unfortunately, SB 39
will reduce credit options and restrict financial choices for Alaskans. That will mean Alaskans will be even more dependent on the use of credit cards- which will only raise their balances (which are the highest in the nation), fees and interest payments. Furthermore, if people are not allowed to access the financial products they need to support themselves in times of financial shock, many will ultimately turn to government support. Alaska currently ranks among the highest per capita state and local public welfare expenditures in the United States, and SB 39 will likely increase this spending level.[10] We oppose SB 39 and respectfully ask the Committee to reject this proposal. Reducing credit options will have negative ramifications for Alaskans – as demonstrated by the data from Illinois. Creating a credit marketplace that is attractive to more lenders, more options, and more choice is a policy that would benefit Alaskans. Specifically, creating a better market for installment loan products would create

[8] Ibid.
[9] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3505440
[10] https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/public-welfare-expenditures

competition around the limited array of products that are available today without reducing options in the process. We welcome the opportunity to work with members of the Alaska State Legislature to pursue meaningful alternatives to those currently contained in SB 39.
Sincerely,

Andrew Duke,
CEO
Online Lenders Alliance
Cell: 571-420-8366

CC:

The Honorable Kelly Merrick
The Honorable Jesse Kiehl
The Honorable James Kaufman
The Honorable Mike Cronk

HUDSON COOK

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March 20, 2025

Senate Finance Committee

Re: Comments on Senate Bill 39

Dear Honorable Members,

My name is Catherine Brennan, and I am a partner at Hudson Cook LLP, a law firm with offices across the US. Our firm focuses on regulatory compliance with financial services laws, representing fintechs as well as state and national banks that offer loan products on a nationwide basis.[i] My practice focuses on bank partnership programs. I am providing the following comments on Senate Bill 39, titled "An Act relating to loans in an amount of $25,000 or less; relating to the Nationwide Multistate Licensing System and Registry; relating to deferred deposit advances; and providing for an effective date." Although there are several components to this bill, I am focusing my comments on Section 10 , the anti-evasion section of the proposed legislation.

The Small Loans Act ("SLA")[ii] provides an optional licensing scheme for the purpose of making loans in amounts of $25,000 or less at "a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if the person were not a licensee."[iii] The SLA exempts a person doing business under and as permitted by any law of Alaska or of the United States relating to banks, savings banks, trust companies, building and loan associations, or credit unions from its licensing requirements. However, an exempt entity must still comply with all other provisions of the SLA if it chooses to contract for interest at a greater rate of interest than permitted under Alaska's usury limit on loans of $25,000 or less. The SLA does not currently require entities that broker, purchase or service consumer loans to obtain a license. In hearings thus far, discussion around this anti-evasion language has been focused on stopping unregulated, potentially offshore entities from circumventing Alaska law and even federal law. There is likely no argument over that objective. However, the way it is written, Senate Bill 39 would impair highly regulated US banks from making legal loans to Alaskans. Senate Bill 39 would incorporate an anti-evasion provision into the SLA that recharacterizes a bank's partner/service provider as the "true lender" on the credit transaction.

Financial institutions of all sizes employ the use of technology to reach customers where they are and to respond to growing consumer preference to conduct more commerce online. While large banks have the ability to invest sizable capital into technology, smaller banks do not. Fintechs act as service providers to banks and offer technology-based solutions that the bank could not financially develop on its own. This collaboration has extended to lending, where banks work in conjunction with their technology service providers to provide credit to businesses and individuals.

In consumer lending, banks work with fintech to offer loans of differing amounts, durations, and pricing to individuals seeking credit. Because of the wide use and availability of online access (through computers and smartphones), almost any consumer or business can search for credit through an array of competing products.

Banks are highly regulated by state and federal officials who oversee their activities for compliance with a myriad of laws and regulations, including consumer protection laws and safety and soundness standards. Fintechs that act as service providers to the banks are subject to a high level of scrutiny from the bank and their regulator. For example, on May 3, 2024, the Office of the Controller of Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (the "Agencies") published "the Third-Party Risk Management: A Guide for Community Banks"iv as a resource for community banks to bolster their third-party risk management programs. The Agencies had also published an "Interagency Guidance on Third-Party Relationship: Risk Management,"v providing principles that banking organizations may consider when developing and implementing risk management practices for all stages in the life cycle of third-party relationships.

Furthermore, contrary to the assertions of some consumer advocates, fintechs generally operate with a high degree of regulatory requirements. Fintechs contractually agree, as the service provider of the banks, to comply with the panoply of consumer financial services laws that apply to consumer lending, and they may need to comply with specific licensing requirements in certain states, depending on what functions they are performing as service providers to the bank.

Attached to this letter is a copy of the federal prudential regulators' (Federal Reserve, Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency) *Interagency Guidance on Third-Party Relationships: Risk Management*. Parts of this guidance have been highlighted to reflect key areas of supervisory oversight with respect to banks' third-party relationships. The highlighting shows that the agencies' expectations are comprehensive and detailed, making for a tight supervisory framework around these relationships.

Federal law clearly allows banks to make loans to borrowers in other states with varying usury limits. Section 85 of the National Bank Act allows federally chartered banks to charge the maximum permissible interest rate of their home state when lending to borrowers in other states.vi Furthermore, section 521 of the Depository Institutions Deregulation and Monetary Control Act ("DIDMCA"), allows federally insured state banks, state credit unions, and state savings institutions the ability to export the "interest" permitted under their home state laws to customers/borrowers in other states.vii

**Clearly, federal law authorizes banks to make loans to borrowers across state lines, and it also allows these banks to work with third parties in the loan making process.**

Furthermore, the evasion language in SB 39 ignores the modern reality that banks manage their balance sheets by routinely originating, purchasing and selling loans. Consider the basic example of a community bank originating a mortgage. There is a high probability that the bank will not hold that 30 year mortgage on its books for the full term, and that loan will be sold and ultimately securitized by Fannie Mae or Freddie Mac. The wording in this bill greatly complicates this type of common practice and will make many consumer and commercial loans unworkable.

The language in this bill is based on twenty-year-old guidance from the Office of the Comptroller of the Currency ("OCC"). It ignores that in today's world banking regulators demand strict legal compliance from its member banks, and banks further demanding strict legal compliance from their service providers. The anti-evasion language in this bill does not add any additional protections for consumers. Rather, it impairs the ability of banks to contract with service providers to offer lending products that consumers want. Succinctly put, banks are great at lending; they are not great at technology. Without the assistance of fintechs, many banks are not able to provide credit the way that most consumers expect to access it in 2025 – online and through our mobile phones. Alaska should not deny its residents access to such credit products based on outdated concepts that do not align with how fintech partnerships operate today.

Regards,

Catherine M. Brennan

HC# 4914-3898-2954

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i *See* https://www.hudsoncook.com/index.cfm.

ii Alaska Stat. §§ 06.20.010 *et seq.*

iii Alaska Stat. § 06.20.010.

iv *See* https://www.occ.gov/news-issuances/bulletins/2024/bulletin-2024-11.html.

v *See* https://www.fdic.gov/news/financial-institution-letters/2023/fil23029.html.

vi *See* https://www.law.cornell.edu/uscode/text/12/85.

vii *See* https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg132.pdf.

# Innovative Lending Platform Association

March 20, 2025

The Honorable Lyman Hoffman
Co-Chair
Senate Finance
Alaska State Legislature

The Honorable Donald Olson
Co-Chair
Senate Finance
Alaska State Legislature

The Honorable Bert Stedman
Co-Chair
Senate Finance
Alaska State Legislature

The Honorable Kelly Merrick
Vice Chair
Senate Finance
Alaska State Legislature

**Letter In Opposition to Senate Bill 39**

Dear members of the Senate Finance Committee, the Innovative Lending Platform Association (ILPA) writes to share our concern and opposition to Alaska Senate Bill 39 - the "True Lender Act," legislation that will hurt access to capital for Alaska small businesses and create severe risks to broader financial markets.

ILPA is the leading trade organization for online finance providers and service companies serving small businesses. Our members1 provide various innovative, digital commercial financing products. They proudly supply thousands of Alaska businesses with working capital to invest, purchase inventory, hire additional staff for the busy season, expand operations, or repair damaged or outdated equipment. Using innovative underwriting and advanced technology, our members assess credit risk and deliver financing in as little as 24 hours.

The U.S. lending market is a complex network of nationally chartered banks, state-chartered banks, non-bank lenders, third-party service providers, and financial technology companies. Millions of Americans' access to capital depends on a liquid credit market where financing providers can evaluate risk, provide small businesses with critically important capital, and sell loans on the secondary credit market to minimize risk to insured depository institutions.

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[1] BackD Business Funding, Biz2Credit, Dedicated GBC, Fiserv, FundBox, iBusiness Funding, Lendio, Mulligan Funding, and OnDeck

One of the primary causes of the Great Recession was depository institutions carrying too many loans on their balance sheets with a high risk of default and a low chance of payback. In the post-Great Recession world, national and state bank regulators recognized the risks of these loans to bank balance sheets and the broader U.S. financial ecosystem. They tightened requirements on banks to prevent lenders from overextending credit and tightened access to capital for American consumers and small businesses, further hurting the U.S. economy. Small business owners, underserved and underbanked populations, rural residents, agricultural-based businesses, and minorities faced increasing difficulty meeting their credit needs from traditional banks.

In response, non-bank companies entered the market to help banks reduce the cost and risk of lending. They partnered with state and nationally chartered banks to provide much-needed capital quickly and meet customer expectations and new regulations.

We ask the Alaska legislature to reconsider how this bill will impact access to capital for small businesses. Transferring loans to non-bank entities is a fundamental aspect of banking that helps reduce risk and ensures that banks meet everyone's credit needs. Restricting this ability by requiring non-banks that acquire the predominant economic interest in loans to be licensed in the state and abide by the state's lending laws will lead to a less flexible and more fragile banking sector. Investors, debt collectors, and other entities that purchase loans on the secondary market are not lenders, and many may not get licensed in the state. This is detrimental to overall financial stability and could lead to higher borrowing costs and less capital available for Alaska consumers and small businesses.

We request the committee reject this bill because it will decrease access to capital and endanger the secondary credit market, a critically important part of our financial system.

Banks play a crucial role in loan origination and risk assessment. By upending this pillar of modern banking, the bill will weaken Alaskans' access to credit and restrict Alaskan banks' ability to offload even the most traditional loans to the secondary market for purchase and servicing.

Respectfully,

Scott Stewart
CEO
Innovative Lending Platform Association
631-678-8166

REVENUE BASED FINANCE COALITION

April 8, 2025

The Honorable Lyman Hoffman
Co-Chair
Senate Finance

The Honorable Donald Olson
Co-Chair
Senate Finance

The Honorable Bert Stedman
Co-Chair
Senate Finance

Senate Bill 39 - OPPOSE

Dear Chairs Hoffman, Olson & Stedman,

The Revenue Based Finance Coalition ("RBFC") is an organization of responsible providers of revenue-based financing to small and medium sized businesses. Our mission is to promote industry best practices and practical and effective legislation that ensures businesses have access to fair and ethical services and capital. The RBFC opposes SB 39 in its current form because of the unintended consequences the bill will have for the smallest of the small businesses in Alaska.

As written, the bill will most impact small businesses seeking loans of less than $25,000 from providers of non-bank commercial financing. The proposed legislation will make those types of loans harder to access and thus will limit access to capital.

Generally speaking, the types of businesses that are seeking loans of $25,000 or less have certain characteristics. They are likely in early operation (less than 2 years), have lower annual revenues of under $250k/year, need specific capital needs such as buying a small piece of equipment or utilizing working capital, may have limited credit histories or lower credit scores, and may have minimal collateral. Main street small businesses in Alaska with these criteria often need smaller loan amounts. Alaska needs policies in place that will keep these options open to the smallest of the small businesses.

We urge the committee members to oppose this bill as to avoid any unintended consequences for Alaska's small businesses.

Sincerely,

Mary Donohue

Mary Donohue, Executive Director
Revenue Based Finance Coalition