



May 15, 2025

The Honorable Neal Foster
Co-Chair
House Finance Committee
Alaska State Legislature

The Honorable Andy Josephson
Co-Chair
House Finance Committee
Alaska State Legislature

The Honorable Calvin Schrage
Co-Chair
House Finance Committee
Alaska State Legislature

Re: Testimony against passage of 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.”

Co-Chairs and Members of the House Finance Committee:

Good afternoon, my name is Wendy Gibson, I am the General Manager of Check City, an Alaska licensed lender located in Provo, Utah.

I am here to speak against the passage of Senate Bill 39. Although positioned as a consumer-friendly bill to reduce the cost associated with short-term loans, its passage amounts to a wholesale prohibition of licensed short-term lending in the state of Alaska. As history teaches us, prohibitions never work. If passed, legitimate and licensed short-term lenders will no longer offer regulated lending in Alaska. No state-licensed lenders or banks will offer short-term loans; the only entities that will offer loans are those who have no regard for Alaska law.

I speak with experience from other states that have enacted similar legislation. The legitimate lenders cease operations and borrowers facing the same short-term need for money are left with only unregulated lenders or more expensive alternatives. There are not readily available small dollar borrowing options for consumers in states where a 36% rate cap prohibition has been enacted.

We want our customers to be successful in repaying their obligation. We do not set customers up for failure. Instead, we evaluate their income, determine their ability to repay their loan, and follow the existing fee and duration limits established by Alaska law. Loans are limited to \$500 dollars and a duration of weeks, not months or years. If a customer is unable to repay, we work with them. If we cannot help that customer repay their loan, it becomes our loss, out of our pocket. Therefore, we want to set our customers up for success.

Our customers are satisfied with our services. This is backed up by the Consumer Financial Protection Bureau's own March 2024 Annual Consumer Response Report. In all of 2023, the Bureau received only one (1) complaint against an Alaska-licensed payday lender.¹ This aligns with trends we see in other states, demonstrating consumers are satisfied with the service they receive from short-term lenders and that complaints are rare.

Alaska's deferred deposit lending statute has worked well for Alaskans for 20 years. Good public policy should not be driven solely by a D.C. based advocacy group and instead should include input from all stakeholders. This bill is not data driven and did not include input from all stakeholders. If the data suggests that certain practices, policies, or additional safeguards are needed to better protect consumers, then we are committed to help codify them. We applaud Alaska's previous effort to provide consumers with an extended payment plan option, allowing them to repay their loan over time, with no additional interest charges, if they were unable to pay on their original due date. We would support additional safeguards where the data demonstrates a clear need.

We encourage you to pause and consider the short-term lending needs of your constituents and vote against the passage of SB 39.

Respectfully submitted,

Wendy Gibson
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¹ Consumer Financial Protection Bureau, Consumer Response Annual Report: 2023, Published March 29, 2024. Appendix, Table 1. Consumers Location: Alaska, Page 79.

From: Zunny [REDACTED]
Sent: Thursday, May 15, 2025 1:38 PM
To: House Finance
Subject: PUBLIC TESTIMONY OPPOSING CSSB 39

PUBLIC TESTIMONY OPPOSING CSSB 39(FIN)

Chair and Members of the Committee,

I submit this testimony in strong opposition to CSSB 39(FIN), which proposes sweeping changes to Alaska's regulation of interest rates and lending practices, including retroactive voiding of contracts and penalties for perceived violations. While consumer protection is a valid and important goal, this bill contains severe legal flaws that will expose the State of Alaska to constitutional litigation, interstate commerce conflicts, and economic disruption.

I. Constitutional Violations

1. Dormant Commerce Clause Violation

CSSB 39(FIN) regulates lending practices that frequently involve out-of-state and online lenders. By seeking to void entire loan agreements and bar collection if any provision violates Alaska's standards, it impermissibly burdens interstate commerce, even when such transactions originate lawfully in other jurisdictions.

- This violates the Dormant Commerce Clause, which prohibits states from regulating extraterritorial conduct or discriminating against interstate actors.
- In *Healy v. Beer Institute* (1989), the U.S. Supreme Court held that a state cannot project its regulatory regime beyond its borders.

2. Contracts Clause Concerns

The bill includes retroactive penalties for interest rates and agreements that were legally valid when entered into. This may constitute a violation of Article I, Section 10 of the U.S. Constitution, which forbids states from passing laws that impair the obligations of contracts.

- Retroactively voiding loan agreements—especially from out-of-state institutions—may fail constitutional scrutiny.
- *Allied Structural Steel Co. v. Spannaus* (1978) is relevant precedent for state laws that drastically interfere with existing contracts.

II. Federal Law Conflicts

1. Federal Preemption under Dodd-Frank and OCC Authority

CSSB 39(FIN) seeks to regulate all lending that affects Alaskan borrowers, including federally regulated banks and online lenders, many of which operate under federal charters or OCC oversight.

- This is likely preempted by the National Bank Act (12 U.S.C. § 85) and Dodd-Frank Act, which set the framework for interest rates and lending practices for federally chartered institutions.
- The Supreme Court in *Barnett Bank v. Nelson* (1996) made clear that states cannot interfere with the powers granted to national banks.

2. Conflict with the FDIA and Federal Banking Standards

Section 10 of the bill enforces interest rate ceilings that may conflict with federally allowed rates for banks insured by the FDIC and other federal institutions, raising additional preemption and supremacy clause issues.

III. Economic and Practical Consequences

1. Chilling Effect on Online Lending and Financial Innovation

The bill would force out-of-state and fintech lenders to either exit the Alaska market or comply with state-specific terms that may be unworkable or legally risky. This will lead to:

- Reduced access to credit for low-income or remote Alaskans.
- Legal uncertainty for national firms unsure whether Alaska's rules apply to their operations.

2. Unenforceable Jurisdiction Over National Companies

Voidance provisions and criminal penalties are legally tenuous if applied to firms with no physical presence in Alaska. Attempts to regulate these entities may:

- Lead to lawsuits against the state.
- Fail under *Quik Payday v. Stork* (10th Cir. 2008), which upheld state regulation only where loans were clearly connected to the forum state.

IV. Recommendations

If the Legislature is committed to reforming predatory lending, I urge the following:

- Add a jurisdictional limitation clause to ensure compliance with the Dormant Commerce Clause.
- Exclude federally chartered banks and institutions from coverage, to avoid preemption challenges.
- Eliminate retroactive provisions that void existing contracts or impair settled agreements.
- Invite a legal review from the Alaska Attorney General on constitutional exposure.

Conclusion

While consumer protection is a vital public policy goal, CSSB 39(FIN) overreaches legally and constitutionally. It opens the state to litigation, undermines contractual integrity, violates federal law, and disrupts access to credit—especially in rural Alaska. I urge the Committee to reconsider or amend this legislation significantly before proceeding further.

Thank you
Susan Allmeroth
Two Rivers

References

Allied Structural Steel Co. v. Spannaus, 438 U.S. 234 (1978).

Barnett Bank of Marion County, N.A. v. Nelson, 517 U.S. 25 (1996).

Brown-Forman Distillers Corp. v. New York State Liquor Authority, 476 U.S. 573 (1986).

Healy v. Beer Institute, Inc., 491 U.S. 324 (1989).

National Bank Act, 12 U.S.C. § 85.

Pike v. Bruce Church, Inc., 397 U.S. 137 (1970).

Quik Payday, Inc. v. Stork, 549 F.3d 1302 (10th Cir. 2008).

U.S. Constitution, Article I, §8, cl.3 (Commerce Clause).

U.S. Constitution, Article I, §10 (Contracts Clause).