

May 2, 2024

[Via Email to Senate.Community.And.Regional.Affairs@akleg.gov](mailto:Senate.Community.And.Regional.Affairs@akleg.gov)

The Honorable Forrest Dunbar
Chair
Senate Community & Regional Affairs Committee
Alaska State Legislature

The Honorable Donald Olson
Vice Chair
Senate Community & Regional Affairs Committee
Alaska State Legislature

Re: Comments on SB 264, "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 Dunbar and Vice Chair Olson:

On behalf of [INFiN, a Financial Services Alliance](#) ("INFiN"), we write in strong opposition to Senate Bill 264. 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 264 and its House companion, HB 145, would mandate an arbitrary 36 percent Annual Percentage Rate (APR) cap on short-term, small-dollar "deferred deposit advance" loans offered by licensed consumer lenders, amounting to 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 264/HB 145 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 such a low 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 264/HB 145, 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.

Notably, the House version of this bill, HB 145, was amended in the House Finance Committee to exempt national banks and credit unions. This amendment will not only allow those entities to circumvent the all-in rate cap in the bill with respect to their basic products but will also allow them to sell costly and unnecessary ancillary products, such as “credit insurance” to borrowers.¹ These ancillary products will be exempt from the “all-in” rate cap applicable to other providers. In sum, if passed in its amended form, the legislature would be picking winners and losers among financial service providers, thereby creating a uneven playing field, while further subjecting Alaskans to the cost of unnecessary products.

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

¹ According to a 2018 report by the Pew Charitable Trusts, credit insurance raises the cost of borrowing by 37 percent. The Pew report stated: “Differences between stated and all-in APRs are endemic in states where interest rates are capped but sales of lump-sum credit insurance in conjunction with the loan and financing of premiums are permitted ... In dollar terms, added credit insurance and other ancillary products increased the cost of borrowing in states that allow them by more than a third on average.” (The Pew Charitable Trusts, “State Laws Put Installment Loan Borrowers at Risk,” October 2018). In a June 2016 report by the Consumer Financial Protection Bureau, which included a section entitled “Potential Consumer Harm from Ancillary Products,” the Bureau concluded that “...in the Bureau's experience, the marketing of ancillary products, sometimes called “add-ons,” can lead to consumer protection concerns.”

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.

Unverifiable, Alaska-specific collections concerns

In a House Finance Committee hearing on April 24, 2024, regarding HB 145, a staff representative for Rep. Stanley Wright, the sponsor of HB 145, stated that deferred deposit advances are not risky loans for the licensed industry because lenders garnish Alaskans’ permanent fund dividend (PFD) as part of their collections practices. This testimony was repeated on April 30, 2024. In our outreach to INFiN members operating in Alaska, we have not been able to identify a single operator that pursues PFD garnishment for payment; in fact a member strongly and categorically denied such practices.

With respect to collections practices, INFiN members adhere to our comprehensive Best Practices as well as all applicable state and federal laws. References to the industry’s alleged practices of PFD garnishment have not cited a source for such information, preventing verification. Further, if garnishment is among legislators’ concern, that issue should be addressed legislatively, as opposed to eliminating a valued, regulated credit product.

Conclusion

Eliminating regulated credit options – as SB 264/HB 145 would – does little to address Alaskans’ need for credit or to ease the challenges they face. Moreover, in its current form, it allows the costs of ancillary products to be charged, undermining the strict 36% rate cap that is purportedly the cornerstone of the bill. 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

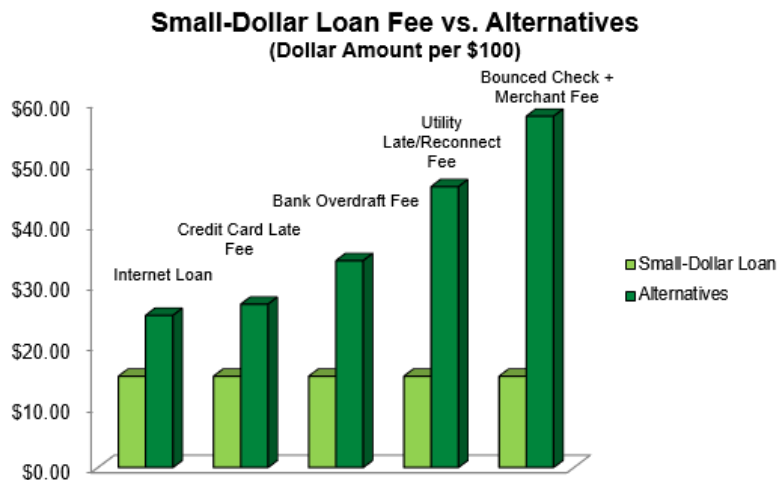
APPENDIX A

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.