March 23, 2021

The Honorable Jeff Longbine
Chair, Financial Institutions and Insurance Committee
2801 Lakeridge Road
Emporia, Kansas

The Honorable Michael Fagg
Vice-Chair, Financial Institutions and Insurance Committee
1810 Terrace Drive
El Dorado, Kansas

The Honorable Virgil Peck
Vice-Chair, Financial Institutions and Insurance Committee
PO Box 299
Havana, Kansas

Re: Comment Submitted in Opposition to SB 218

Dear Senators Jeff Longbine, Michael Fagg, and Virgil Peck,

The Online Lenders Alliance (OLA) is writing to express opposition to Senate Bill 218 (SB 218), which would restrict access to credit for nonprime consumers by establishing an interest rate cap. OLA represents the online lending industry and companies providing services to online lenders. Last year, the Department of Homeland Security (DHS) declared lending businesses, like those OLA represents, an essential service during the COVID-19 pandemic.

The provisions proposed in SB 218 run counter to the declaration by DHS as evidence shows they would likely restrict access to credit and threaten thousands of jobs while many consumers and businesses continue to struggle with the ongoing pandemic. Data from the U.S. Department of Labor shows that millions of unemployment claims were filed over the last year, shattering historical records.[1] Government data reveals that millions of people remain unemployed, and the economic hardship falls disproportionately on Black, Latino, indigenous, and immigrant households.[2] This crisis demonstrates in stark terms why we need to protect credit access for consumers who may be experiencing income lapses due to illness, reduced ability to work due to social distancing requirements, or other factors. In fact, there are still more than one-hundred new COVID-19 cases in Kansas each and every day.

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[1] "Office of Unemployment Insurance Weekly Claims Report," United States Department of Labor.

[2] "Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships," Center on Budget and Policy Priorities, December 18, 2020. Available at: https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and.

Last year, the Federal Reserve found that "if small loan revenue is constrained by rate ceilings, only large loans will be provided. Consumers who need a small loan or only qualify for a small loan would not be served."[3] This finding parallels the recent recommendations provided by the Consumer Financial Protection Bureau's (CFPB) Taskforce on Federal Consumer Financial Law, which state the following:

> "States should exercise caution when setting interest rate caps when implementing regulations on small dollar credit loans. States should carefully consider the negative impact on credit availability when considering further regulations. Preferably, interest rate caps should be eliminated entirely."[4]

Consumers who lose access to safe and affordable credit often end up with more expensive alternatives. After Oregon implemented a rate cap, bank overdraft fees and late bill payments increased while the overall financial condition of Oregon residents declined.[5] After Georgia passed a rate cap, there were increases in bankruptcy rates, bounced checks, and complaints to the Federal Trade Commission.[6] A 2018 World Bank study found that rate caps led to negative side effects, including "increases in non-interest fees and commissions, reduced price transparency, lower credit supply and loan approval rates for small and risky borrowers, lower number of institutions and reduced branch density, as well as adverse impacts on bank profitability."[7] Also, the Military Academy at West Point published a study that found that access to short-term loans may actually reduce involuntary separation in the army.[8]

Unfortunately, credit access has already been severely restricted during the pandemic. Many financial institutions, including banks, credit unions, and nonbank lenders have tightened lending standards, and some have even halted consumer lending altogether.[9] Although negatively impacted by COVID-19, most OLA members have continued lending, and many have implemented additional measures and options to assist consumers, including waiving fees, freezing interest, providing flexible payment plans and due date adjustments, and allowing consumers to skip payments.

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[3] Lisa Chen and Gregory Elliehausen, ""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," Federal Reserve, August 12, 2020.

[4] "Consumer Financial Protection Bureau's Taskforce on Federal Consumer Financial Law Releases Its Report," Consumer Financial Protection Bureau, January 5, 2021. Available at: https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureaus-taskforce-on-federal-consumer-financial-law-releases-its-report/.

[5] Zinman, et al., "Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap," Dartmouth College, October 2008.

[6] Morgan, et al., "Payday Holiday: How Households Fare after Payday Credit Bans," Federal Reserve Bank of New York, February 2008.

[7] Ferrari, et al., "Interest Rate Caps: The Theory and The Practice," World Bank Group, April 2018.

[8] Carter, et al., "Much Ado about Nothing? New Evidence on the Effects of Payday Lending on Military Members," Military Academy, West Point, October 2017.

[9] AnnaMaria Andriotis, Ben Eisen, "Consumers Face a Massive Credit Crunch. Lenders are Still Figuring Out What to Do," The Wall Street Journal, March 19, 2020. Available at: https://www.wsj.com/articles/consumers-face-a-massive-credit-crunch-lenders-are-still-figuring-out-what-to-do-11584610200.

Our members are committed to working with their customers to help them make it through this difficult time. In fact, a recent Morning Consult survey asked 4,400 adults a variety of questions related to financial technology (fintech) firms, including whether those who had taken out a fintech loan had seen their credit score improve or worsen after taking out the loan. According to the survey, a large plurality of consumers who had borrowed from a fintech company saw their credit scores increase after taking out their loan. Consumers in the low to moderate income categories (those who would be most likely to see their access to credit negatively impacted through this rate cap) expressed the largest net increase in better credit. Demographically, black and Hispanic respondents said their credit scores improve the most.[10]

For the reasons outlined above, OLA opposes SB 218. Nonetheless, OLA stands ready to work with members of the Kansas State Legislature to protect consumers, encourage competition, and create a more equitable and fairer environment in financial services for everyone.

Thank you very much for your consideration,

Mary Jackson
President and CEO
Online Lenders Alliance

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[10] Claire Williams, "Fintech: How the Public Views the Future of Finance," Morning Consult, March 11, 2021. Available at: https://morningconsult.com/fintech-special-report/.