

# Testimony of the American Financial Services Association in opposition to HB 24-1148

Before the Colorado House Finance Committee

February 26, 2024

Thank you for the opportunity to testify today on HB 1148. The American Financial Services Association, known as AFSA, 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 direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA does not represent payday lenders or title lenders.

Our members have significant concerns about HB 1148, which has the potential to further disrupt access to safe and affordable credit in Colorado. If passed as written, it will drive far-reaching negative socio-economic consequences, as more than a million Coloradans with credit scores that make it more difficult to secure loans from banks and credit unions, find that they have nowhere to turn for the credit they need to smooth their finances, meet emergencies, and build the credit scores they need to become financially mobile.

Three out of four Coloradans seeking installment loans in the state are already turned down, according to a report the state itself commissioned.<sup>i</sup> Those turn down rates reach over 85% for deep subprime Colorado consumers.<sup>ii</sup>

A similar law—albeit with a higher rate—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 got some kind of state-reported loan went from 431,018 people in 2019 down to 62,102 people in 2021.<sup>iii</sup> The difference is 368,916 people no longer getting state-regulated and reported loan products.
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.<sup>iv</sup>
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.<sup>v</sup> According to the Illinois Trends Report issued by the state, loans for larger amounts with longer repayment terms have increased by 226%.<sup>vi</sup> 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.

There is now a preponderance of evidence that points to the fact that these Military-style APR (“MAPR”) 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.

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. <sup>vii</sup> This is the case for loans at 36% (not Colorado's 21%) AND as defined in the Truth in Lending Act (TILA). This break-even rate would be higher under HB 24-1148, because it uses MAPR, which includes non-APR items in the APR calculation.

Several organizations understand the value of traditional installment lending and the potential damage caused by MAPR-based rate cap laws:

- The National Black Caucus of State Legislators resolution BED-16-21 <sup>viii</sup> 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 Report <sup>ix</sup> 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 study <sup>x</sup> on the effects of the Military Lending Act (*i.e.* the same MAPR rate cap contemplated in HB 1148) uses credit bureau data from 2013-2021 and finds 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.”

Furthermore, when the novel definition of “All-In APR” or MAPR 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. If Colorado 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 HB1148, we respectfully request that proponents of this legislation please open a dialogue about those concerns instead of effectively banning them by including them in the calculation of “rate.”

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 is paid back in a year, and 365 percent if paid in a day—but the cost is still \$1. Though the MAPR definition is particularly troublesome, APR limits such as those contemplated in HB 1148 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. This also explains why loans in Illinois have increased in size and term since the passage of their 36% MAPR rate cap: because in order to get the “rate” down, a loan has to be larger and/or longer to fit the cap. Ironically, this results in consumers taking out larger loans than they may need. And although these loans are lower “rate” they are not lower cost.

In conclusion, the small dollar loans that will be eradicated should HB 1148 pass as written, are a critical source of credit for working individuals and families in Colorado. They are a safe and

affordable alternative to other forms of credit and critically, by reporting loan performance to credit bureaus, they allow borrowers to build or repair their credit, consolidate debt, free up funds to deal with emergencies, and take advantage of opportunities that would otherwise be missed. This is an essential financial capability and the key to financial mobility.

For these reasons, we oppose HB 1148 as written. Thank you for the opportunity to submit our testimony.

---

<sup>i</sup> The Availability of Safe and Affordable Credit from Non-Depositories in Colorado: A Report to the Colorado Attorney General, January 2023, p. 6.

<sup>ii</sup> *ibid*

<sup>iii</sup> Source: [Illinois Trends Report](#) 12/20/2022

<sup>iv</sup> *ibid*

<sup>v</sup> Source: [Credit for me but not for thee: The effects of the Illinois rate cap](#) 7/3/23

<sup>vi</sup> Source: [Illinois Trends Report](#) 12/20/2022

<sup>vii</sup> “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 presumably need to be larger in a state with an APR definition that includes items beyond TILA rate as “rate.”

<sup>viii</sup> [A Resolution Promoting Safe and Affordable Lending Practices \(NBCSL\)](#)

<sup>ix</sup> <https://www.cbcinstitute.org/21stcenturycouncil>

<sup>x</sup> [The Effects of APR Caps and Consumer Protections on Revolving Loans \(Urban Institute\)](#)

# Testimony of the American Financial Services Association in opposition to HB 24-1148

Before the Colorado House Finance Committee

February 26, 2024

Thank you for the opportunity to testify today on HB 1148. The American Financial Services Association, known as AFSA, 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 direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA does not represent payday lenders or title lenders.

Our members have significant concerns about HB 1148, which has the potential to further disrupt access to safe and affordable credit in Colorado. If passed as written, it will drive far-reaching negative socio-economic consequences, as more than a million Coloradans with credit scores that make it more difficult to secure loans from banks and credit unions, find that they have nowhere to turn for the credit they need to smooth their finances, meet emergencies, and build the credit scores they need to become financially mobile.

Three out of four Coloradans seeking installment loans in the state are already turned down, according to a report the state itself commissioned.<sup>i</sup> Those turn down rates reach over 85% for deep subprime Colorado consumers.<sup>ii</sup>

A similar law—albeit with a higher rate—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 got some kind of state-reported loan went from 431,018 people in 2019 down to 62,102 people in 2021.<sup>iii</sup> The difference is 368,916 people no longer getting state-regulated and reported loan products.
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.<sup>iv</sup>
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.<sup>v</sup> According to the Illinois Trends Report issued by the state, loans for larger amounts with longer repayment terms have increased by 226%.<sup>vi</sup> 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.

There is now a preponderance of evidence that points to the fact that these Military-style APR (“MAPR”) 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.

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.<sup>vii</sup> This is the case for loans at 36% (not Colorado’s 21%) AND as defined in the Truth in Lending Act (TILA). This break-even rate would be higher under HB 24-1148, because it uses MAPR, which includes non-APR items in the APR calculation.

Several organizations understand the value of traditional installment lending and the potential damage caused by MAPR-based rate cap laws:

- The National Black Caucus of State Legislators resolution BED-16-21<sup>viii</sup> 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 Report<sup>ix</sup> 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 study<sup>x</sup> on the effects of the Military Lending Act (*i.e.* the same MAPR rate cap contemplated in S 518) uses credit bureau data from 2013-2021 and finds 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.”

Furthermore, when the novel definition of “All-In APR” or MAPR 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. If Colorado 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 HB1148, we respectfully request that proponents of this legislation please open a dialogue about those concerns instead of effectively banning them by including them in the calculation of “rate.”

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 one percent APR is paid back in a year, and 365 percent if paid in a day—but the cost is still \$1. Though the MAPR definition is particularly troublesome, APR limits such as those contemplated in HB 1148 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. This also explains why loans in Illinois have increased in size and term since the passage of their 36% MAPR rate cap: because in order to get the “rate” down, a loan has to be larger and/or longer to fit the cap. Ironically, this results in consumers taking out larger loans than they may need. And although these loans are lower “rate” they are not lower cost.

In conclusion, the small dollar loans that will be eradicated should HB 1148 pass as written, are a critical source of credit for working individuals and families in Colorado. They are a safe and affordable alternative to other forms of credit and critically, by reporting loan performance to credit bureaus, they allow borrowers to build or repair their credit, consolidate debt, free up funds to deal with emergencies, and take advantage of opportunities that would otherwise be missed. This is an essential financial capability and the key to financial mobility.

For these reasons, we oppose HB 1148 as written. Thank you for the opportunity to submit our testimony.

---

<sup>i</sup> The Availability of Safe and Affordable Credit from Non-Depositories in Colorado: A Report to the Colorado Attorney General, January 2023, p. 6.

<sup>ii</sup> *ibid*

<sup>iii</sup> Source: [Illinois Trends Report](#) 12/20/2022

<sup>iv</sup> *ibid*

<sup>v</sup> Source: [Credit for me but not for thee: The effects of the Illinois rate cap](#) 7/3/23

<sup>vi</sup> Source: [Illinois Trends Report](#) 12/20/2022

<sup>vii</sup> “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 presumably need to be larger in a state with an APR definition that includes items beyond TILA rate as “rate.”

<sup>viii</sup> [A Resolution Promoting Safe and Affordable Lending Practices \(NBCSL\)](#)

<sup>ix</sup> <https://www.cbcinstitute.org/21stcenturycouncil>

<sup>x</sup> [The Effects of APR Caps and Consumer Protections on Revolving Loans \(Urban Institute\)](#)



**National  
Consumer Law  
Center**

*Fighting Together  
for Economic Justice*

NATIONAL HEADQUARTERS  
7 Winthrop Square, Boston, MA 02110  
(617) 542-8010

WASHINGTON OFFICE  
Spanogle Institute for Consumer Advocacy  
1001 Connecticut Avenue, NW, Suite 510  
Washington, DC 20036  
(202) 452-6252

**NCLC.ORG**

## **BEFORE THE COLORADO HOUSE FINANCE COMMITTEE**

### **TESTIMONY IN SUPPORT OF HOUSE BILL 24-1148**

Carolyn L. Carter

Deputy Director, National Consumer Law Center

February 26, 2024

Thank you for holding this hearing on H.B. 24-1148, a bill to improve transparency of consumer loans and protection of consumer borrowers in Colorado.

I am the Deputy Director of the National Consumer Law Center (NCLC), a nonprofit organization, founded in 1969, that works for consumer justice and economic security for low-income and other disadvantaged people. NCLC publishes a series of twenty-one practice manuals on consumer law and utility law, including *Consumer Credit Regulation and Practices* (3d ed. 2020), updated at [www.nclc.org/library](http://www.nclc.org/library). That treatise analyzes federal and state consumer lending laws, and the decisions of the courts interpreting and applying those laws. I am one of the primary authors of that treatise, and the primary author of its chapter on consumer installment loan laws like the Colorado Uniform Consumer Credit Code (UCCC). I am also the co-author of several reports on the annual percentage rates (APRs) allowed by these laws, the most recent of which is [Predatory Installment Lending in the States: How Well Do the States Protect Consumers Against High-Cost Installment Loans?](#) (Nov. 21, 2023).

H.B. 24-1148 will significantly improve Colorado's protections for consumer borrowers by requiring that add-on charges such as credit insurance premiums be taken into account when determining whether a loan falls within the UCCC's APR cap.

Counting these add-on charges as part of the finance charge is important as a way to ensure that lenders do not evade the state's APR cap by loading up the loan with charges for ancillary items not reflected in the APR. Lenders push these products on consumers because they keep a share of the premiums. In addition, by including these charges in the amount financed, they are able to charge interest on them. Moreover, for

credit insurance products, the amounts paid on claims are small in relation to the premiums, and the pay-outs go to the lender.

Piling on fees for add-on charges is a documented problem in Colorado. A 2022 [report](#) by the Center for Responsible Lending that studied a sample of loan documents from two large supervised lenders in Colorado found that 60% of the loans included charges for add-on products such as credit insurance and auto club memberships. In many of these cases, the add-on charges comprised more than 10% of the loan amount. In one case, a consumer was charged for three different types of insurance plus an auto club membership, adding \$5,197.84 to the principal of a \$10,000 loan. The lender disclosed an APR of 20.98%, but the true cost of the credit for the borrower, including the charges for the add-on products, was over 47% APR.

The approach that H.B. 24-1148 would adopt is the same as Congress chose when it enacted the Military Lending Act (MLA) in 2006 to cap the APR on loans to members of the military and their families. That law, 10 U.S.C. § 987, and the regulations adopted by the U.S. Department of Defense, 32 C.F.R. Part 232, require the APR to include not just interest and fees but also credit insurance charges and other add-on charges. Colorado consumers deserve no less.

I urge you to vote in favor of H.B. 24-1148.

February 26th, 2024

The Honorable Mike Weissman  
200 E Colfax Avenue  
Denver, CO 80203

The Honorable Javier Mabrey  
200 E Colfax Avenue  
Denver, CO 80203

*RE: Support of HB 24-1148*

Dear Representative Mike Weissman Representative Javier Mabrey, and Members of the House Finance Committee,

I am writing today on behalf of Rocky Mountain MicroFinance Institute in support of HB24-1148 Amending Terms of Consumer Lending Laws currently under consideration by the House Finance Committee.

Rocky Mountain MicroFinance Institute (RMMFI) is a Community Development Financial Institution and mission-driven lender. In partnership with Colorado's Office of Economic Development & International Trade (OEDIT), the Department of Local Affairs, and other state agencies and community organizations we serve hundreds of entrepreneurs across the state. Entrepreneurs come to us to start businesses. Through capacity building technical assistance support we center the entrepreneur in their journey to business ownership. Capital is essential to launching a business and RMMFI meets their capacity needs with loan capital support up to \$75,000.

Predatory lending has historically been a major issue among our network for 500+ Colorado entrepreneurs. From extremely high-interest loan products to limited visibility into the 'true cost' of various interest rates on loans, many entrepreneurs come to RMMFI after having been victims of predatory loans. Many more come to RMMFI to learn about equitable capital and avoid any potential missteps as they start and grow their business.

Rocky Mountain MicroFinance Institute supports HB24-1148 because it builds on the strong standards and protocols of HB23-1229. With stronger protections and more accurate disclosures for entrepreneurs seeking business capital, Colorado can be a safe, inclusive place for individuals to start businesses. Colorado's strength is its robust local economies and entrepreneurial spirit - we believe this bill will help to build stronger local businesses, stronger communities, and a stronger Colorado.

Rocky Mountain MicroFinance Institute is proud to be an example of a lending institution that puts entrepreneurs and their best interests first. We have been providing low-interest loans to higher barrier communities for the past 15 years. We, alongside other Colorado CDFIs, are

proving that it is possible to lend equitably and inclusively which is a standard all our state lenders should uphold.

RMMFI urges the members of the House Finance Committee to pass HB24-1148 to support our state's small business owners seeking to launch and grow their businesses. We thank the sponsors of this important legislation and urge the legislature to pass HB24-1148 during the 2024 legislative session.

Thank you,

Theresa Rinne-Meyers  
Director of Impact  
Rocky Mountain MicroFinance Institute  
[theresa@rmmfi.org](mailto:theresa@rmmfi.org)