January 22, 2021

The Honorable J. B. Pritzker
Governor, State of Illinois
James R. Thompson Center
100 W. Randolph, 16-100
Chicago, Illinois 60601

Re: SB 1792

Dear Governor Pritzker,

The Online Lenders Alliance (OLA) would like to express its opposition to the provisions of SB 1792 that would establish a 36 percent rate cap and a Predominant Economic Interest (PEI) test. OLA represents the online lending industry and companies that provide services to online lenders. In 2020, the Department of Homeland Security declared regulated lending businesses, like the businesses OLA represents, an essential service during the COVID-19 pandemic, which was soon followed up by your office via Executive Order 2020-10 (COVID-19 Executive Order No. 8), which deemed small-dollar lenders essential during the pandemic.

SB 1792 was passed in expedited fashion that lacked substantive discussion and input from key stakeholders, including Illinois residents and local businesses. As a result, there was insufficient opportunity to explore the bill's potentially unintended negative consequences, such as reducing access to credit during a pandemic, especially for the State's most vulnerable residents.

The bill's provisions run counter to the declaration by DHS as the bill would lead to less credit access while threatening thousands of jobs. Already several businesses headquartered in Illinois have stated they would leave the State as they are not able to provide small-dollar loans to nonprime consumers under a 36 percent rate cap. Just 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."[1]

"*Thank you for your help with obtaining a short-term loan! I contracted COVID-19 four weeks ago and have been unable to work. This loan will pay my bills next month. I am so grateful!*"

Consumer Testimonial,
11/24/2020

[1] 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.

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In addition, SB 1792 runs counter to the recent recommendations[2] provided by the Consumer Financial Protection Bureau's (CFPB) Taskforce on Federal Consumer Financial Law, which recommended 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."

The CFPB taskforce provided this recommendation after reviewing substantial evidence and data showing that rate caps, like the 36 percent APR proposed in SB 1792, restrict access to credit, especially for nonprime consumers. Approximately a third of Illinois residents are considered nonprime (those with credit scores under 670)[3] and 19.5 percent of Illinois households use alternative financial services for their credit needs, according to the Federal Deposit Insurance Corporation (FDIC).[4] The vast majority of these mostly black and Hispanic households have accounts at banks or credit unions, but they are unable to obtain small-dollar loans from those institutions. The pandemic has only made things worse, leaving OLA lenders as one of the very few credit options left for nonprime consumers and minority groups.

OLA lenders understand the devastating impacts that COVID-19 has had on nonprime consumers and minority groups, which is why lenders have provided financial assistance to so many consumers. According to a CFPB report, "[Financial] assistance was more likely to be reported for borrowers residing in areas with more COVID-19 cases, with majority-Black or majority-Hispanic populations, and with larger changes in unemployment since the start of the pandemic."[5]

"*I have been trying to correct my credit and this has helped me tremendously, especially during this time of the year*."

Consumer Testimonial,
11/20/2020

[2] "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/.
[3] "Americans' FICO Scores," Experian, 2020.
[4] "FDIC National Survey of Unbanked and Underbanked Households," Federal Deposit Insurance Corporation, October 19, 2020. Available at: https://www.fdic.gov/analysis/household-survey/2017/index.html.
[5] "The Early Effects of the COVID-19 Pandemic on Consumer Credit," Consumer Financial Protection Bureau, August 2020. Available at: https://files.consumerfinance.gov/f/documents/cfpb_early-effects-covid-19-consumer-credit_issue-brief.pdf.

The PEI test is also disconcerting. It is unclear how lenders can comply with requirements under that provisions establishing the PEI test but it also seems to run counter to the National Bank Act, a Federal law governing banks. Banks and fintech lenders collaborate together in order to provide credit to underserved consumers. Banks have the infrastructure and a lower cost to capitol while fintech firms have expertise around online lending and serving the nonprime consumer with innovating underwriting criteria. The PEI test will threaten these collaborations, which will significantly reduce the competitive nature of community banks that need to partner with fintech firms to stay in business.

As your constituents continue to struggle with the uncertainties of COVID-19, now is not the time to reduce credit access via a rate or a PEI test. On January 7 of this year, the number of COVID-19 cases in Illinois exceeded one million, which is more than double the total number of cases less than two months ago.[6] Now, more than ever, we need to ensure that non-prime consumers have options to deal with unforeseen or irregular expenses.

For the reasons outlined above, OLA opposes SB 1792. It reduces access to credit to nonprime consumers during a pandemic and disproportionately harms black and Hispanic households. However, OLA stands ready to work with you 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

[6] "Coronavirus in Illinois updates: Here's what's happening Friday with COVID-19 in the Chicago area," Chicago Tribune, January 8, 2021. Available at: https://www.chicagotribune.com/coronavirus/ct-covid-19-pandemic-chicago-illinois-news-20210108-xt66ryt4urhdfn4nehtdj765fu-story.html.