September 11, 2019

Representative James Murphy, Co-Chair
Senator Jim Welch, Co-Chair
Joint Committee on Financial Services
State House
Boston, MA 02133

Re: SB 554 - An Act relative to licensure simplification

Dear Chairman Murphy and Chairman Welch:

I write on behalf of the American Financial Services Association ("AFSA")[1] to express our support for SB 554, which would simplify licensing requirements in the state and ensure that licensed motor vehicle sales finance companies do not need an additional small loan license to finance transactions with negative equity. We believe this legislation would be a positive change for companies already licensed to do business in the state and for consumers, who will have more options for trading in their existing vehicles when financing the purchase of a vehicle.

When a consumer finances a vehicle from a retail seller, many consumers have the option of trading in an existing vehicle and rolling any remaining balance owed on that vehicle into the new retail installment sales contract (RISC). This remaining balance owed to a previous creditor is commonly referred to as negative equity. The retail seller later assigns the RISC to a licensed motor vehicle sales finance company. In such a transaction, the vehicle dealer, not the sales finance company taking assignment of the RISC, is responsible for financing the negative equity and paying off the prior lienholder. The licensed sales finance company only takes assignment of the contract after the transaction is complete. As with transactions not involving negative equity, the vehicle dealer is the original creditor of the transaction and finances the purchase.

Under existing law, negative equity balances of $6,000 or less on contracts with interest rates greater than 12 percent are treated as small loans subject to Massachusetts General Laws chapter 140, section 96. Accordingly, licensed motor vehicle sales finance companies taking assignment of contracts with such negative equity balances are required to obtain a small loan license, in addition to their existing sales finance license.

SB 554 would simplify the state's licensing requirements and clarify that certain state-licensed entities like sales finance companies do not need an additional small loan license to finance contracts with negative equity. While the negative equity financing may be only a small portion of a larger overall contract balance owed on the RISC, they are not separate loans. The negative

---

[1] Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., 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 members do not provide payday or vehicle title loans.

equity is part of a single vehicle purchase transaction and would not exist without the underlying financing of the vehicle purchase; it is no more separable from the overall loan than the sales tax, service contract, or any other component of the transaction.

As sales finance companies are already licensed and regulated by the Division of Banks, the existing duplicative licensure requirement for contracts containing negative equity are an unnecessary barrier with no added consumer benefits. If left in place, these requirements risk leaving consumers with fewer options when looking to purchase a vehicle and trade-in their existing vehicles.

For all of these reasons, we respectfully request your support for this bill. Thank you in advance for your consideration of our concerns. If you have questions or would like to further discuss our perspective, please do not hesitate to contact me by phone at 952-922-6500 or email at dfagre@afsamail.org.

Respectfully,

Danielle Fagre Arlowe
Senior Vice President
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517