



May 15, 2020

Councilmember Phil Mendelson  
Chairman, District of Columbia Council  
1350 Pennsylvania Avenue, NW  
Suite 504  
Washington, DC 20004

**Re: District of Columbia B23-0751**

Dear Chairman Mendelson:

The American Financial Services Association (AFSA)<sup>1</sup> appreciates your efforts to protect Washington, D.C. residents in numerous ways throughout the COVID-19 crisis. Our members share your goal of providing relief to borrowers facing financial hardship and have taken tremendous steps to help borrowers during this emergency.

We write today regarding Temporary Bill B23-0751, which, among other provisions, would enact strict requirements on the use of consumer reports. The bill would require consumer reporting agencies to create a “COVID-19 alert” in a consumer’s file if the consumer demonstrates evidence of direct or indirect financial hardship caused by the Mayor’s public health emergency. It would prohibit a user of a consumer report from using or considering “any adverse information in a report that was the result of an action or inaction by a consumer” if the consumer’s file contains the COVID-19 alert during the emergency and sixty days after its conclusion.

These provisions would create a significant compliance burden for creditors. The credit underwriting process assesses a prospective borrower based on a number of different factors, including their overall credit profile, income, and ability to repay the loan. Credit decisions are not made solely based on the status of any single credit account, making it difficult, if not impossible, to isolate or disregard the specific effect of coronavirus-related adverse information at the consumer report user level.

Moreover, developing a credit model that disregards certain adverse information in compliance with the bill’s requirements would not be feasible given the constraints of existing credit reporting systems. While creditors do work closely with prospective borrowers to tailor the credit offered based specifically on each borrower’s financial needs and individual credit

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<sup>1</sup> 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.

profile, blanket restrictions on considering certain credit information, like the restriction in the bill, would preclude creditors from offering credit narrowly tailored to meet certain borrowers' needs. Further, to the extent that any adverse information provides an indication of the borrower's ability to repay new credit, requiring creditors to disregard such information would create safety and soundness concerns for the new loan by interfering with creditors' means of fully assessing the borrower's ability to repay the loan.

The information required to be disregarded could affect individual tradelines, delinquencies, or other information that is provided as part of a consumer report obtained by a user. Because creditors do not have the ability to remove or dissect information from a consumer report, or to identify how that information included in a consumer report may have affected an individual's credit score, this provision could limit the ability of creditors to use consumer reports overall and thus affect the availability of credit for District of Columbia consumers.

The federal CARES Act provides protections and relief for consumers from adverse credit reporting due to the coronavirus outbreak, and creditors are already taking steps to implement these changes. Any District-specific changes to the credit reporting systems and processes, and development of new or revised credit models, would require significant time to implement, test, and validate, and thus could not be implemented in the time period contemplated by the bill.

We thank you for your attention to this matter. If you have any questions, or if AFSA can be of assistance to you in any way, please do not hesitate to contact me at 952-922-6500 or [dfagre@afsamail.org](mailto:dfagre@afsamail.org).

Sincerely,



Danielle Fagre Arlowe  
Senior Vice President  
American Financial Services Association  
919 Eighteenth Street, NW, Suite 300  
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cc:

All members, District of Columbia Council