



American Fintech Council Written Testimony

TO: The California State Assembly Committee on Banking and Finance
FROM: Ashley Urisman, Director of State Government Affairs,
American Fintech Council (AFC)
DATE: April 6, 2024
SUBJECT: Assembly Bill 2350

Re: American Fintech Council's Opposition to California Assembly Bill 2350

Dear Chair Valencia, Vice-Chair Chen, and members of the California State Assembly Committee on Banking and Finance:

On behalf of the American Fintech Council, I am writing to express our strong opposition to Assembly Bill 2350 ("AB 2350" or "the bill"), which as currently drafted, would effectively ban flexible rent payment solutions for Californians.

A standards-based organization, AFC is the largest and most diverse trade association representing financial technology (fintech) companies and innovative banks. On behalf of over 150 member companies and partners, AFC promotes a transparent, inclusive, and customer-centric financial system by supporting responsible innovation in financial services and encouraging sound public policy. AFC members foster competition in consumer finance and pioneer products to better serve underserved consumer segments and geographies. AFC members offering flexible rent payment solutions include both purpose-built rent payment platforms and leading consumer finance companies that have expanded into the rental market to give renters more options for managing their largest monthly expense.

I. AB 2350 Would Eliminate Flexible Rent Solutions For Approximately 400,000 Californians

AFC respects the intent of the bill's sponsor to address barriers to housing security and affordability for Californians. However, passage of AB 2350 will not advance those goals. It will remove a consumer-demanded financial service that approximately 400,000 Californians have used to pay over \$2.1 billion in rent, while driving those renters back toward the high-cost alternatives the bill's supporters claim to oppose.

The underlying problem flexible rent payment solutions address is structural, not behavioral. Most renters are paid weekly, biweekly, or on variable schedules, yet rent is due in full on or around the first of the month. This timing mismatch — between when income arrives and when the largest household expense is due — creates predictable, recurring liquidity pressure for millions of renters who are otherwise current on their financial obligations. For households with little to no emergency savings, that pressure can trigger a cascade of penalties: late rent fees, overdraft and NSF charges, and recourse to expensive short-term credit.

The consequences of that cascade are not small. Approximately 23 percent of U.S. renters — roughly 10 million households — incur at least one late rent fee in any given year, amounting to more than \$2.2 billion annually in late fees alone. Among those who incur a late fee, 60 percent incur two or more, and 42 percent incur another late fee in the very next month.¹ Average late fees are approximately \$85, but California landlords may charge up to 5

¹ Consumer Financial Protection Bureau. "Behind on Rent: Examining Rental Housing Delinquencies in New Payment Data." CFPB Research Report, 2022. <https://www.consumerfinance.gov/data-research/research-reports/behind-on-rent-examining-rental-housing-delinquencies-in-new-payment-data/>

percent of monthly rent, which on the average California rent of \$2,695 equals \$134.75 for a single occurrence. Many California leases additionally impose daily accrual charges of \$5 to \$10 per day once the grace period expires, meaning a renter who falls ten days behind can accumulate an additional \$50 to \$100 in penalties on top of any flat fee.² To put that in terms the bill's supporters have used against flexible rent payment services: a 5 percent flat late fee resolved within five days annualizes to an effective rate of approximately 365 percent. When daily accrual charges are included, that figure rises to between 430 and 500 percent.³ These are the products California renters will be forced to rely on if AB 2350 passes. A renter who avoids just two or three such events in a year saves more than the entire annual cost of a flexible rent payment service.

Flexible rent payment solutions are not financing discretionary spending. They are structured, bounded tools that allow renters to split a single month's essential housing obligation across two payment dates aligned with their income schedule. The landlord is paid in full on time. The renter repays the advanced portion later in the same month. This is closer in function to a payroll-timing bridge than to revolving consumer credit.

II. AFC Members' Products Operate Within an Existing Federal Regulatory Framework

A central premise of AB 2350 is that flexible rent payment products operate outside meaningful regulatory oversight. That is not accurate. AFC members' flexible rent payment solutions are already regulated under a combination of federal and state law. Depending on product structure, applicable frameworks include the Truth in Lending Act, Regulation Z and state consumer lending statutes. The specific regulatory path varies by how a product is structured, but no AFC member offering flexible rent payment services operates in an unregulated environment. Compliance with applicable law is not a loophole; it is the floor on which these products are built, and AFC members have consistently supported regulatory engagement to clarify and strengthen that floor.

AB 2350 does not distinguish between regulated and unregulated products and bans the entire category, including the members of this industry that have done the most to build products that do not profit from renter failure.

III. Banning Rental Flexibility Services Does Not Eliminate the Problem; It Eliminates the Safer Solution

If AB 2350 passes, the approximately 400,000 Californians currently using flexible rent payment services will still face the same timing mismatch between their income and their rent due date. The bill does not solve that problem. It removes one of the more bounded, lower-cost tools available for managing it and forces renters into a set of alternatives that are more expensive, carry compounding costs, and in several cases are precisely the products the bill's supporters identify as predatory.

It is also important to recognize that many California renters are already making harmful tradeoffs to cope with the timing mismatch that flexible rent payment services are designed to address. Before turning to a structured financial product, renters routinely delay other bills, skip essential expenses like groceries or medications, overdraw checking accounts, borrow from family or friends, or turn to high-cost short-term credit. These coping strategies are not invisible to policymakers — they show up as overdraft fees, utility shutoffs, credit card delinquencies, and payday loan rollovers. Eliminating access to a lower-cost, non-compounding alternative does not eliminate the underlying pressure. It eliminates the escape valve.

The alternatives renters will be left with are well documented and materially more costly:

- Late rent fees averaging \$85 per occurrence nationally, with California lease agreements permitting up to 5 percent of monthly rent and many imposing additional daily accrual charges of \$5 to \$10 per day after the

² California Civil Code § 1671. Late fees in California residential leases are governed by the liquidated damages provisions of California Civil Code § 1671, under which courts have generally upheld fees not exceeding 5 percent of monthly rent as a reasonable estimate of damages.

³ AFC calculation: Effective annualized rate computed as: $(\text{fee} / \text{rent}) \times (365 / \text{days to resolution})$. A 5 percent flat fee (\$134.75 on \$2,695 rent) resolved within 5 days: $(\$134.75 / \$2,695) \times (365 / 5) \approx 365\%$. With \$10/day accrual over 5 additional days (\$50): $(\$184.75 / \$2,695) \times (365 / 5) \approx 500\%$. This annualization methodology mirrors the approach used by critics of flexible rent payment services in computing effective APR for those products.

grace period expires — a cost structure that annualizes to an effective rate of 365 percent or more, higher than what critics have cited against flexible rent payment services.⁴

- Overdraft and NSF fees averaging \$40 per occurrence, with multiple fees possible in a single day and no cap on total exposure.⁵
- Credit cards carrying rent portal processing fees of 2.95 to 3.25 percent plus 25 to 36 percent APR on any carried balance — a revolving, compounding structure with no fixed repayment date and no ceiling on total cost.⁶
- Payday loans at effective rates of 300 percent or more, structured with rollover mechanics that compound obligations week over week and generate the debt cycles the bill’s supporters cite as their primary concern.⁷
- Skipping other essential expenses — groceries, medications, utilities — to cover rent on time, a coping strategy with no dollar cost but significant consequences for household stability and health.

If the committee’s goal is to reduce eviction risk for California renters, the evidence suggests that banning this product moves in the wrong direction.

IV. AFC Believes a Pragmatic Regulatory Framework, Not a Ban, Is the Correct Policy Response

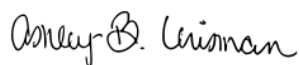
AFC and its members do not oppose regulation of flexible rent payment services. We have actively advocated for a regulatory framework that establishes clear standards for transparency, consumer protection, and product design. A framework that requires upfront fee disclosure, prohibits late fees and compounding interest, mandates fixed pricing, and restricts adverse credit reporting for non-repayment would codify the protections that responsible members of this industry already provide — while ensuring that any provider without those protections is required to adopt them.

That is a meaningfully different policy outcome than a ban. A ban removes a consumer-demanded service from the 400,000 Californians currently using it, drives them toward higher-cost alternatives, and does so on the basis of claims that the best available causal evidence does not support. A regulatory framework improves the floor for all providers without eliminating access for the renters who benefit from it.

AFC respectfully requests that this committee table AB 2350 and instead engage AFC and its members in the development of a regulatory framework that ensures flexible rent payment services offered in California are transparent, consumer-protective, and supportive of the financial well-being of the renters this legislation is intended to serve.

I thank you for the opportunity to submit this testimony and welcome any questions from the committee.

Sincerely,



⁴ AFC calculation: Effective annualized rate computed as: $(\text{fee} / \text{rent}) \times (365 / \text{days to resolution})$. A 5 percent flat fee (\$134.75 on \$2,695 rent) resolved within 5 days: $(\$134.75 / \$2,695) \times (365 / 5) \approx 365\%$. With \$10/day accrual over 5 additional days (\$50): $(\$184.75 / \$2,695) \times (365 / 5) \approx 500\%$. This annualization methodology mirrors the approach used by critics of flexible rent payment services in computing effective APR for those products.

⁵ Consumer Financial Protection Bureau. “Consumer Financial Protection Bureau Finds Overdraft/NSF Revenue Concentrated Among Frequent Users.” CFPB Data Point, 2021, available at <https://www.consumerfinance.gov/data-research/research-reports/data-point-overdraft-nsf/>. See also: Financial Health Network. “Overdraft and NSF Fees: A Bigger Burden Than Previously Estimated,” available at <https://finhealthnetwork.org/research/overdraft-nsf-fees-bigger-burden-than-previously-estimated/>.

⁶ Rent portal processing fees: RealPage and DoorLoop published fee schedules (2024–2025). Credit card APR: Board of Governors of the Federal Reserve System, Consumer Credit (G.19 Statistical Release), 2025, available at <https://www.federalreserve.gov/releases/g19/>.

⁷ Consumer Financial Protection Bureau. “Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings,” Apr. 24, 2013, available at https://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.

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