



April 6, 2020

The Honorable Kevin Thomas
Chairman of Committee on Consumer Protection
New York State Senate

The Honorable Kenneth Zebrowski
Chairman of Governmental Operations Committee
New York State Assembly

Re: A10118 / S5480 New York State Small Business Truth in Lending Act - SUPPORT

Dear Senator Thomas and Assemblyman Zebrowski:

We, the undersigned, **proudly endorse the New York State Small Business Truth in Lending Act (A10118 / S5470)**. Our diverse coalition includes private-sector fintech lenders, nonprofit community development financial institutions (CDFIs), business advocacy organizations, and research and policy nonprofits. We share deep concerns with the lack of transparency afforded to New York small businesses – a problem even more critical given the great need of businesses seeking immediate financial relief due to COVID-19. As the crisis continues to unfold and put our small businesses at risk of closing, we applaud your leadership to empower New York businesses with the information they need to avoid predatory lenders in their search for a financing lifeline.

Main Street is the bedrock of New York's economy. Small businesses make up 99.8% of all New York businesses and employ over half of the state's workforce.¹ Now more than ever, these small businesses need access to affordable capital to avoid layoffs and stay afloat amid the COVID-19 pandemic. Businesses desperate for cash are especially vulnerable to predatory financing providers who mask high-cost products with misleading or nonexistent price disclosures.

Today, some financing companies are charging small businesses annual percentage rates (APR) that can average 94%, and even up to 350%, without ever disclosing those APRs to the borrowers.² Although it is not currently required for small businesses in New York, the CFPB explains that, "the APR, or annual percentage rate, is the standard way to compare how much loans cost. It lets you compare the cost of loan products on an 'apples-to-apples' basis."³ A 2018 report by the New York State Department of Financial Services noted that "unfavorable terms that are not often clear to the [small business] owners" as a result of the a lack of truth in lending protections for small businesses.⁴ Federal Reserve data indicates that minority-owned businesses are disproportionately impacted by the financing products often lacking transparent price disclosures.⁵

The *New York State Small Business Truth in Lending Act* would address this regulatory gap and provide small businesses the clear disclosures they deserve. As written, the legislation requires providers to disclose APR and other key terms that enable borrowers to make apples-to-apples comparisons of various financing options.

It is critical that the New York State Legislature act quickly to pass A10118 / S5470 and provide small businesses with transparent disclosures, like those afforded to consumers under the federal *Truth in Lending Act* since 1968. This legislation would set the nation's strongest commercial lending disclosure requirements, expanding on California's SB 1235, just when small businesses need protection the most. It is time to support New York's vulnerable small businesses and provide them with the protections they deserve as they struggle to endure and rebuild from the coronavirus crisis.

We thank you, Senator Thomas and Assemblyman Zebrowski, for your leadership to protect small businesses and we urge your colleagues in the legislature to offer their full support for this important legislation. For more information, please do not hesitate to contact us at info@borrowersbillofrights.org.

Signed,

1. Responsible Business Lending Coalition

Members include: Accion Opportunity Fund, Community Investment Management, Funding Circle, LendingClub, Opportunity Finance Network, Opportunity Fund, Small Business Majority, StreetShares, and The Aspen Institute

2. Accion Opportunity Fund

¹ U.S. Small Business Administration Office of Advocacy, "2018 Small Business Profile: New York," 2018.

<https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-NY.pdf>

² Opportunity Fund, "Unaffordable and Unsustainable: The New Business Lending," 2016.

<https://www.opportunityfund.org/media/blog/unaffordable-and-unsustainable-new-opportunity-fund-report/>

³ Consumer Financial Protection Bureau, "Credit cards key terms." <https://www.consumerfinance.gov/consumer-tools/credit-cards/answers/key-terms/>

⁴ New York State Department of Financial Services, "Online Lending Report," 2018.

https://www.dfs.ny.gov/docs/reportpub/online_lending_survey_rpt_07112018.pdf

⁵ Federal Reserve, "Small Business Credit Survey: Report on Minority-Owned Firms," 2016.

<https://www.fedsmba.org/survey/2017/report-on-minority-owned-firms>

3. Anchor Financial Services
4. CAMEO Network
5. CMR Communications
6. Community Capital New York
7. Community Investment Management
8. Community Loan Fund of the Capital Region
9. Funding Circle
10. Hot Bread Kitchen
11. Human Scale Business
12. Jefferson Economic Development Institute
13. Justine PETERSEN
14. LendingClub
15. Leviticus Fund
16. Lighter Capital
17. Marketplace Lending Association
Members include: LendingClub, Prosper, Funding Circle, Avant, Marlette Funding, Affirm, Common Bond, Upstart, Peer Street, Lending Point, College Ave, SoFi, and YieldStreet
18. MultiFunding
19. National Urban League
20. Nav
21. New York State CDFI Coalition
22. NextStreet
23. Opportunity Finance Network
24. Opportunity Fund
25. PathStone Enterprise Center
26. Small Biz Silver Lining
27. Small Business Majority
28. SMB Intelligence
29. StreetShares
30. This Week in Fintech
31. TruFund Financial Services, Inc.
32. UpState New York Black Chamber of Commerce
33. Woodstock Institute

Cc:

Temporary Senate President and Majority Leader Andrea Stewart-Cousins
Senate Banks Committee Chairman James Sanders Jr.
Assembly Speaker Carl Heastie
Assembly Banks Committee Chairman Thomas Abinanti