RESPONSIBLE BUSINESS
LENDING COALITION

January 23, 2024

The Honorable Sen. Sandy Crawford, Chair
Senate Committee on Insurance and Banking
201 W. Capitol Ave., Rm. 319
Jefferson City, MO 65101

RE: Opposition to SB753, Commercial Financing Disclosure Law

Dear Chair Crawford, Vice Chair Trent, and members of the Senate Committee on Insurance and Banking:

The Responsible Business Lending Coalition (RBLC) writes today in opposition to SB753, the *Commercial Financing Disclosure Law* as introduced. As the creator of the Small Business Borrowers' Bill of Rights (BBoR), which represents the first cross-sector consensus on standards of responsible lending to small businesses, our Coalition is committed to expanding access to responsible financing options for business owners in Missouri and nationwide. We commend Missouri lawmakers for their efforts to promote a healthy and transparent small business financing marketplace in the state. Unfortunately, as currently written, SB753 would fail to provide business owners the transparency that they need to make informed decisions about their financing options. In fact, by failing to require a provider to disclose an annual percentage rate (APR) or estimated APR for their products, the bill would facilitate the same harmful and deceptive practices that trap small business owners in unsustainable debt and threaten their livelihoods.

More than 100 for-profit and non-profit small business financing providers and advocacy organizations have endorsed the Small Business Borrowers' Bill of Rights and agreed to uphold these rights when working with business owners. The first right identified in the BBoR is the Right to Transparent Pricing and Terms, which calls for small business financing providers to clearly disclose seven key terms (including APR or estimated APR) when offering financing. Business owners have come to expect APR and other standard information for financing products, as this information has been legally required for consumer finance products (such as credit cards and mortgages) for more than 50 years under the federal Truth in Lending Act (TILA). Since TILA doesn't apply to business financing, companies can legally charge triple digit annual percentage rates (APRs) without ever disclosing these rates to business owners.[1] In the absence of required disclosures for business finance products, companies commonly advertise novel pricing terms such as "simple interest" and "factor rate." Research from the Federal Reserve reveals that business owners often confuse these terms with APR and mistakenly select costlier products based on this information.[2] APR is the only pricing metric that enables true comparison between products, regardless of the amount, term length, payment period, or combination of interest and fees.

---

[1] Unaffordable and Unsustainable: The New Business Lending on Main Street. Accion Opportunity Fund, 2016 https://aofund.org/news/unaffordable-and-unsustainable-new-business-lending/
[2] Source: Federal Reserve Bank of Cleveland, "Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites," December 2019 https://www.clevelandfed.org/publications/cd-reports/2019/sr-20191219-uncertain-terms

APR can be calculated for a range of financing products regardless of their structure, fees, or term length. That's why companies providing a range of innovative financing products for consumers have been disclosing APR or estimated APR for decades as required under TILA. Many commercial financing providers across the country, including signatories of the Small Business Borrowers' Bill of Rights, already disclose APR for various types of small business financing. The CEO of the Structured Financing Network, a leading trade organization representing factoring and asset-based small business financing companies, said on the record in 2023 that his organization would not oppose California's APR disclosure requirements as long as the regulatory language allowed for estimates in the case of variable rate products.[3] Like the federal TILA bill, California's regulations provide guidelines for disclosing estimated APR for products that don't have a fixed term and alerting customers to the fact that their actual costs might differ. Rapid Finance, a leading merchant cash advance company, sells software that can enable any merchant cash advance company to automate these Estimated APR computations.[4]

Entrepreneurs need more financing options that will help their businesses thrive, not force them out of business. By requiring comprehensive small business finance disclosures, including APR, Missouri lawmakers would support a healthy business financing market that rewards companies for offering the most innovative and affordable products, rather than devising the most misleading pricing information. Financing companies that currently offer costly products with misleading price disclosures may lose business when transparency reveals their prices to be uncompetitive. This would enable more responsible, affordable capital options to enter the market to better support business owners.

As a member of the Senate Committee on Insurance and Banking, we urge you to oppose SB753 in its current form and amend the bill to include APR among the critical information small business owners need to compare and select the best financing option for their needs. We are happy to be a resource to you as you consider improvements to the bill in support of Missouri small business owners.

Sincerely,

Awesta Sarkash, Vice Chair
The Responsible Business Lending Coalition

---

[3] Reference 1:04:50 of the following hearing: https://www.assembly.ca.gov/media/assembly-banking-and-finance-committee-20230612

[4] Will Tumulty, CEO of Rapid Finance, described their calculator as giving Industry "the tools they need to help ensure that they can continue to efficiently and compliantly meet the financing needs of their customers." Businesswire, Rapid Finance Announces Availability of API Service to Support State-Level Business Lending Disclosure Requirements (Dec. 9, 2022, 7:01 AM), https://tinyurl.com/4suct43f.

RESPONSIBLE BUSINESS
LENDING COALITION

ACCION OPPORTUNITY FUND

aspen institute

bluevine

camino financial

COMMUNITY INVESTMENT MANAGEMENT CIM

LendingClub

NALCAB

NCRC
National Community Reinvestment Coalition

OPPORTUNITYFINANCE NETWORK

SMALL BUSINESS MAJORITY