



SMALL BUSINESS BORROWERS' BILL OF RIGHTS

2019 Revision Summary

In 2015, the Small Business Borrowers' Bill of Rights (BBoR) became the first set of standards for responsible small business lending. Over the last four years, the BBoR has been signed or endorsed by over one hundred small business lending companies and nonprofit organizations, and it has inspired the first small business borrower protection law of the modern era. The Responsible Business Lending Coalition periodically updates the Small Business Borrowers' Bill of Rights to incorporate insights developed along the way and feedback from stakeholders. The BBoR was first revised in 2017. Following is a summary of the substantive revisions proposed for 2019.

The Right to Transparent Pricing and Terms

- 1) Clear Comparison – Formatted the seven disclosure elements that are required into a list, for clarity.
- 2) Plain English Terms – Added prohibition on using novel pricing metrics that look like an interest rate or APR, but are not an interest rate or APR. For example, consider a loan with a 57% interest rate. Quoting “20% simple interest rate,” “20% rate,” or “20% factor rate” would not be permissible.
- 3) Fair Warning – Removed this requirement, which had mandated specific language when making a referral. In order to most effectively influence the market, BBoR will require market best practices. Mandating specific language extends further than market best practices, as no market participant would use this language but for the BBoR, and so mandating it may reduce the BBoR's credibility. Referral terms are now partially addressed by the expanded “Plain English Terms” function.

The Right to Non-Abusive Products

- 4) No “Double Dipping” – Clarified the prohibition on “double dipping.”
- 5) No Hidden Prepayment Charges – Updated to incorporate the improved position developed in course of advocacy on SB 1235, the California small business lending disclosure bill. Clarified what constitutes a hidden prepayment charge. Will likely not affect any providers not charging hidden prepayment charges.
- 6) Fair Prepayment – Expanded the “Prompt Prepayment Assistance” provision to add a prohibition on charging a higher payoff amount if the payoff comes from another provider refinancing the loan. That practice unfairly discourages borrowers from refinancing into lower-cost alternatives.

The Right to Fair Treatment from Brokers and Lead Generators

- 7) Added lead generators to this section on brokering so that the BBoR provides a clear framework for lead generators as well as brokers.
- 8) Transparent Loan Options – Removed the requirement for brokers to disclose the names of all lenders to which the broker sent a loan application on the borrower’s behalf. This is not a market practice, and no significant borrower benefit was identified to merit retaining it.
- 9) Transparent Results – Removed this requirement, which required brokers to post on their websites the aggregated results that borrowers obtained through their services, in terms of APR. While we believe this would be a benefit to borrowers and bring transparency to the market, no broker or lead generator today conducts this disclosure. Rather than set a bar that no single participant in the market would reach, we revised the standards in section to reflect market best practice so the BBoR can be a more effective and credible voice on brokering issues.
- 10) Empower Borrowers to Make Informed Financing Decisions – Removed this provision, which expressed a general sentiment but did not include a specific practice that must be adhered to.
- 11) Disclosure of Conflicts of Interest – Modified here to reflect the RBLC’s policy objective that brokers be held to a “duty of care” to act in the borrowers’ best interest.
- 12) No Fees for Failure – Clarified that the prohibition on fees, if a loan is not obtained, does not apply to unrelated services such as accessing credit reports.

The Right to Fair Collection Practices

- 13) Fair Agreements – Added this provision prohibiting use of confessions of judgment, which have been spotlighted in the press and by state and federal legislators for being subject to widespread abuse.