



October 26th, 2018

RE: Oppose Senate Bill 2262 (Singleton, small business disclosures)

Dear Senator,

As nonprofit organizations and companies committed to the health of New Jersey small businesses, **we regrettably urge you to Oppose Senate Bill 2262 in its current form.** We commend Senator Singleton for raising the critical issue of small business financing transparency. Unfortunately, without APR the bill would set back transparency efforts, rather than delivering the transparency that businesses deserve.

The undersigned organizations include small business and consumer advocacy groups, nonprofits and CDFIs, and for-profit financing providers. We all agree that an all-in, annualized rate, APR, is necessary for small businesses to make informed comparisons between different financing options.

Research by the Federal Reserve has established APR as a central metric that business owners want and expect, including for merchant cash advances.¹ Research also indicates that too many small businesses are paying APRs of 94%, and as high as 350%, without these high rates every being disclosed.² The transparency problem small businesses face today IS the lack of APR disclosure. A bill that does not require APR does not solve this problem, and harms transparency efforts by appearing to bless the inadequate disclosures that confuse small businesses today.

- *APR is the most clear and effective metric for comparison* – APR is critical because no other metric enables apples-to-apples comparison between financing options of different term lengths and amounts. This is why APR is the legally required standard, vetted over many years, for credit cards, mortgages, auto loans, and personal loans, including loans that are shorter than one year such as payday loans. APR is used in small business lending and is required in the *Small Business Borrowers' Bill of Rights* and the SMART Box, two small business financing industry standards.
- *The currently proposed price metrics are not sufficient* – Disclosure of interest rate, exclusive of fees, does not enable small business owners to compare the costs of merchant cash advances. They do not use an interest rate. Financing charge and dollar cost are not sufficient because they do not account for the cost of borrowing *over time*. A 1-year cash advance may have a lower financing charge than a 5-year loan—but be much more expensive to use 5 times over a 5-year period. Unfortunately, some financing products are renewed over and over, much like payday loans. One leading provider has advertised that, “Approximately 90% of our Merchant Cash Advance clients participate in the program more than once. In fact, the average customer renews about ten times!”³ Surely these borrowers deserve to know the annual cost they are paying. That is what APR provides.

- *APR can be calculated for all necessary types of financing* – While some are concerned that APR cannot be calculated for merchant cash advances, some merchant cash advance providers already do calculate it! Many calculators exist online to help confused business owners determine the APR of merchant cash advances. APR can and should be disclosed. Small businesses deserve it.

For these reasons, the need for transparent small business disclosures IS the need for an all-in, annualized rate, or APR. Given the opportunity, we hope to work with the Senate to also address additional improvements to the bill with respect to disclosure of payment amount, prepayment charges, and creating a level playing field across small business' different financing options. We thank Senator Singleton for his leadership in working to address this issue. **Until the bill can be improved to address the need for transparency in an effective way, we respectfully request your NO vote.**

Cc: Senator Singleton

Signed,

Small business advocacy organizations:

Responsible Business Lending Coalition
Small Business Majority
Venturize

For-profit fintech companies and financing providers:

Funding Circle
LendingClub
Nav
StreetShares

Nonprofit community development financial institutions:

Accion
Opportunity Fund

¹ Lippman, Barbara and Ann Marie Wierch, "Browsing to Borrow: 'Mom & Pop' Small Business Perspectives on Online Lenders," Federal Reserve Board of Governors, June 2018. <https://www.federalreserve.gov/publications/files/2018-small-business-lending.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/>. Research by the Woodstock Institute also identifies undisclosed effective interest rates ranging up to 350%: Woodstock Institute, "Analysis of Business Loan Terms." http://www.woodstockinst.org/wp-content/uploads/2016/07/Woodstock_Analysis_of_Online_SB_Loan_Terms.pdf

³ <http://web.archive.org/web/20161110041235/http://www.rapidadvance.com:80/merchant-cash-advance>