



**Re: Via Electronic Mail:  
regulations@dbo.ca.gov**

Department of Business Oversight, Legal Division  
Attn: Senior Counsel Charles Carriere  
1515 K Street, Suite 200  
Sacramento, California 95814-4052  
Via email: regulations@dbo.ca.gov

January 31, 2020

Re: Third Invitation for Comments on Proposed Rulemaking Commercial Financing Disclosures, File No: 01-18

Dear Mr. Carriere,

As representatives of the coalition of over 500 nonprofit organizations and industry participants who inspired and supported the passage of California SB 1235, the first small business truth in lending law in the nation, the Responsible Business Lending Coalition (RBLC)<sup>1</sup> thanks the Department of Business Oversight (“the Department”) for this opportunity to comment on the economic impact of the proposed rulemaking to implement this important law.

This year, over 1 million California small business owners will consider loans and advances to finance their businesses,<sup>2</sup> many without being told the true price of those financing options. Researchers at the Federal Reserve repeatedly have found that small business owners today are misled or inhibited from making accurate cost comparisons between financing options because of a lack of transparency by financing providers.<sup>3</sup> California became the first state in the nation to address this problem, when the Assembly passed SB 1235 with a bipartisan vote of 72-3.

---

<sup>1</sup> The Responsible Business Lending Coalition (RBLC) is a network of nonprofit and for-profit lenders, investors, and small business advocates that share a commitment to innovation in small business lending and serious concerns about the rise of irresponsible small business lending. In 2015, the coalition created the Small Business Borrowers' Bill of Rights, which inspired California Senate Bill 1235. [www.borrowersbillofrights.org](http://www.borrowersbillofrights.org)

<sup>2</sup> See Table 1, row A

<sup>3</sup> Federal Reserve Bank of Cleveland, “Alternative Lending through the Eyes of ‘Mom & Pop’ Small-Business Owners,” August 2015. <https://www.clevelandfed.org/newsroom-and-events/publications/special-reports/sr-20150825-alternative-lending-through-the-eyes-of-mom-and-pop-small-business-owners.aspx>  
Federal Reserve Board of Governors, “Browsing to Borrow: ‘Mom & Pop’ Small Business Perspectives on Online Lenders,” June 2018. <https://www.federalreserve.gov/publications/files/2018-small-business-lending.pdf>  
Lipman, Barbara and Ann Marie Wiersch, Board of Governors of the Federal Reserve System, “Searching for Small Business Credit Online,” Consumer and Community Context, Nov 2019, Vol 1, No 2, <https://www.federalreserve.gov/publications/files/consumer-community-context-201911.pdf>



Transparent price disclosure is a fundamental requirement for a functioning market. When advocating for the passage of the 1967 federal Truth in Lending Act, which provides transparency for consumers, sponsoring Senator William Proxmire stated, “Part of our free enterprise system is to disclose the fact to the consumer. When the consumers have the facts they can best make up their minds on whether to buy or not. This is at the heart of our free enterprise system. It insures that in the final analysis business is responsive to the needs of the consumer. Thus, disclosure is in the mainstream of our economic system.”<sup>4</sup> California wisely has recognized that our small businesses also deserve the benefits of transparency and free enterprise.

Using Federal Reserve data, the RBLC estimates that among the one million California small businesses applying for capital annually,<sup>5</sup> the approximately 400,000 small businesses<sup>6</sup> who apply to online lenders will benefit the most, as they are more likely to be facing a lack of transparency in the disclosures of many current online lenders. Today, these small businesses may be overpaying for credit by as much as \$665 million to \$5.4 billion dollars annually.<sup>7</sup>

Again relying on Federal Reserve data, we estimate that, once empowered through transparency, about one third of these small businesses, about 127,000 small businesses annually, may select a more affordable financing option with than they would have selected under current price disclosure practices, saving these small businesses from \$617 million to \$2.9 billion.<sup>8</sup> While small businesses across the board could benefit, those that are underserved, minority-owned, immigrant-owned, and smaller businesses - who disproportionately apply for online financing - will benefit even more from the ability to comparison shop.<sup>9</sup>

We are confident that the benefits to these hundreds of thousands of California small businesses will outweigh the costs faced by financing providers covered under the law. Indeed, this is why so many financing providers and small businesses alike supported the passage of SB 1235 and share the view that transparency is critical for healthy markets and for the main street entrepreneurs who fuel our economy.

Overall, we estimate that the positive economic impact of implementing SB 1235 will be as much as \$1.4 to \$12.1 billion -- far exceeding estimated provider compliance costs estimated to be \$10.4 million.<sup>10</sup>

---

<sup>4</sup> Statement made by Senator William Proxmire on the floor of the United States Senate, July 11, 1967, in support of the Truth in Lending Bill (s.5) that he sponsored and introduced on January 11, 1967.

<https://books.google.com/books?id=KBRdWzY1ZpsC&pg=PA18403&dq#v=onepage&q&f=false>

<sup>5</sup> See Table 1, row A.

<sup>6</sup> See Table 1, row B.

<sup>7</sup> See Table 1, row B+C.

<sup>8</sup> See Table 1, row C.

<sup>9</sup> *Id.*

<sup>10</sup> See Table 1, row H

Table 1: Summary of estimated annual economic impact

	<u>Type of economic impact</u>	<u>Estimated annual impact (#)</u>	<u>Estimated annual impact (\$)</u>
A	California businesses applying for capital	1,038,034 firms <sup>11</sup>	-
B	Businesses applying for financing from providers covered by SB 1235	400,000 firms <sup>12</sup>	\$48 million to \$2.4 billion in saved financing costs for small businesses, as result of competition bringing prices down over time by 1% - 20%, throughout the market. <sup>13</sup>
C	Estimated numbers of businesses who would select a lower-cost financing option, once empowered to make effective cost comparisons	127,000 firms.  This includes an estimated 11,000 African American-owned and 39,000 Hispanic-owned firms. <sup>14</sup>	\$617 million to \$2.9 billion in financing costs saved by small businesses within one year, as a result of disclosure empowering small businesses to identify and select affordable options. <sup>15</sup>
D	Employees of these businesses, who may benefit from increased stability of their employer	1.5 million employees <sup>16</sup>	-
E	Increased local economic activity in CA as a result of this savings	-	\$665 million to \$5.4 billion in increased economic activity <sup>17</sup>
F	Potential additional jobs provided and wages paid by California small businesses, as a result of this savings	640 to 25,785 new jobs <sup>18</sup>	\$33 million to \$1.3 billion in additional wages paid, if 5-25% of small business savings used for payroll. <sup>19</sup>
G	Financing providers affected	166 <sup>20</sup> providers	Up to \$10.4 million in potential compliance costs to providers, based on a cost of \$0 - \$62,500 per provider.
H	<i>Total</i>	<i>2 million small businesses, employees, and providers</i>	<i>\$1.4 to \$12.1 billion in economic impact</i>

- 
- <sup>11</sup> This represents 3,548,449 firms per US Census Bureau, Survey of Business Owners, 2012. [https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml?src=bkmk](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk), multiplied by the 43% of employer firms, and 26% of non employer firms applying for capital, per Federal Reserve, Small Business Credit Survey: Report on Employer Firms, 2019. <https://www.fedsmallbusiness.org/survey/2019/report-on-employer-firms>
- <sup>12</sup> 37% of CA employer firms, and 39% of non-employer firms, apply to “online lenders.” This is used here to represent all covered providers, including MCA, factoring, and lease financing. However, this may undercount the number of impacted small businesses as these percentages do not necessarily include MCA, factoring, and lease financing. See Federal Reserve (2019)
- <sup>13</sup> Costs per firm based on a financing amount of \$29,186, with cost ranging from \$12,199 to \$30,433 and savings per small business from \$4,864 to \$23,098, based on Opportunity Fund and Financial Health Network, “The True Cost of Capital,” June 2019. <https://marketing.opportunityfund.org/acton/attachment/32187/f-e691097b-f3f9-4f2b-8a92-045d6869c9c8/1/-/-/-/True%20Cost%20of%20Capital%20.pdf>
- <sup>14</sup> Of the small businesses applying for capital from a covered provider, only a portion will make a different financing decision as a result of transparent disclosure. We estimate this to be 34% of employer firms, and 31% of non-employer firms, based on the percentage who indicate price as the primary factor in their financing decisions, per Federal Reserve (2019)
- <sup>15</sup> Opportunity Fund and Financial Health Network (2019)
- <sup>16</sup> According to the State of California Employment Development Department, there were 9.5 million California employees of firms with fewer than 100 employees, as of Q3 2018. See Employment Development Department, State of California, “Size of Business Data – 2008 – present,” 2018. [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Report\\_Terms.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Report_Terms.html). According to Federal Reserve data, 43% of employer firms are seeking capital, and of these 37% are seeking capital from an online lender. See Federal Reserve (2019).
- <sup>17</sup> Based on the economic multiplier discussed below in response to question 2, including saving indicated in Table 1, rows B and C.
- <sup>18</sup> Additional wages paid could potentially take the form of new jobs or increased wages. Based on estimated small business savings applied to payroll, and per-job annual payroll cost of \$51,971 for CA businesses with fewer than 100 employees, derived as Total quarterly payroll of \$123,775,216,000 annualized and divided by 9,526,395 employees California Employment Development Department, 2018 Q3 data.
- <sup>19</sup> Table 1, Rows B and C, multiplied by 5-25%.
- <sup>20</sup> Estimate based on 59 Signatories of the RBLC’s Small Business Borrowers Bill of Rights ([www.borrowersbillofrights.org/signatories.html](http://www.borrowersbillofrights.org/signatories.html)), 11 providers in the ILPA (<https://innovativelending.org/>); 74 merchant cash advance companies listed in the funder directory of the DeBanked trade publication (<https://debanked.com/merchant-cash-advance-resource/merchant-cash-advance-directory/>); 17 non-bank providers in Equipment Leasing and Financing Association in California, offering debt, conditional sale/money-over-money, or sale/leaseback financing (<https://www.elfaonline.org/directories/directories-home>); and 5 providers in Financial Innovation Now (<https://financialinnovationnow.org/>).

1. Categories and numbers of individuals and business enterprises who will be affected by the proposed regulations and the financial effect on each category.

Two types of enterprises will be primarily impacted by the proposed regulations: 1) California small businesses and 2) companies that provide financing to those businesses.

### *Effects on California Small Business Owners*

The first and largest group that will be affected by the proposed regulations are the California small business owners who are seeking financing. According to the U.S. Census 2012 Survey of Business Owners, there are over 3.5 million small businesses in California, including nearly 700,000 with paid employees (“employer firms”) and an additional 2.8 million without paid employees (“nonemployer firms”).<sup>21</sup>

Of those California businesses applying for financing, more than one in three--**about 400,000 California small businesses**--apply to an online lender in a given year.<sup>22</sup> This proportion is higher for African American and Hispanic-owned employer firms, who on average apply to online lenders at higher rates<sup>23</sup>. For the purposes of estimating the impacts of these regulations, we consider “online lender” to be a reasonable proxy for financing products covered by SB 1235, although it may undercount merchant cash advances, factoring, and lease financing.

We believe California’s small businesses that seek financing may be affected by the regulations in two important ways:

1. *Empowerment in Credit Seeking*: The ability to clearly and easily compare various financing options in terms of monthly payment and APR will enable California small business owners to more clearly identify the most affordable financing, or the best for their individual situation. For some, this will not lead to a change in the financing product they select, because they are not price sensitive and/or they more highly value other factors when seeking credit. For others, transparent disclosure of prices, which can average 94% APR for some businesses in California and reach 358% APR or more, will lead to selecting a more affordable financing option.<sup>24</sup> According to the Federal

---

<sup>21</sup> United States Census Bureau: “Survey of Business Owners: Statistics for All U.S. Firms by Industry, Gender, Ethnicity, and Race for the U.S., States, Metro Areas, Counties, and Places” (2012) available at:

<https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

<sup>22</sup> See Table 1, row B.

<sup>23</sup> 41% of African-American owned employer firms apply online, along with 52% of African-american owned non-employer firms. 43% of Hispanic-owned employer firms apply online along with 36% of Hispanic-owned non-employer firms. See Federal Reserve (2019).

<sup>24</sup> St. Louis, Weaver, Donaker Brown, and McShane, Opportunity Fund, “Unaffordable and Unsustainable: The New Business Lending on Main Street,” May 2016. <https://www.opportunityfund.org/wp-content/uploads/2019/09/Unaffordable-and-Unsustainable-The-New-Business-Lending-on-Main-Street-Opportunity-Fund-Research-Report-May-2016.pdf>

Reserve's 2019 Small Business Credit Survey, 34% of California employer firms and 31% of nonemployer firms consider price or interest rate to be a key factor in selecting financing. We use these proportions as a proxy for the percentage of small businesses that will seek lower cost financing when price is disclosed transparently. **Therefore, we estimate that in a given year over 127,000 California small business owners may proactively select lower-cost financing as a result of these regulations.** These benefits will begin accruing to California small businesses immediately upon implementation of these regulations and will continue as long as the disclosures are required.

2. *Changes in Available Credit Options:* These regulations will bring efficiency and price competition to a broken market. Today, it is difficult for financing providers to build a business based on offering better prices because prices are not transparently disclosed. Instead, competition generally takes place on speed and ease of accessing the financing. Once price disclosures begin to create more effective price competition, innovation to offer lower prices will be incentivized through market forces. As small business credit seekers begin selecting different credit options, competition may lead existing financing companies to lower their prices. Additionally, new entrants may seek to meet this demand by offering lower cost financing.

This was a primary goal of the 1967 Truth in Lending Act. Senator Proxmire stated that, "The market system requires information in order to function--information on the part of both buyers and sellers. When information channels become clogged, competition breaks down. The essence of the truth-in-lending bill is to restore full information in the consumer credit field to insure a full disclosure of the cost of credit and thus to permit the market system to function more effectively."<sup>25</sup>

If cost of capital decreases in the market all applicants will benefit, including the 400,000 California small business owners who seek financing online in a given year, not limited to those who choose to select a more affordable financing option as a result of disclosure. We predict that these broader market benefits will develop over time and will become larger in each subsequent year.

### *Effects on Financing Companies Lending to California Small Businesses*

As providers in the market today, we believe the cost to providers of complying with this regulation will be small and absorbable. Furthermore, providing transparency through a simple disclosure will not result in a reduction in access to capital.

---

<sup>25</sup> Statement made by Senator William Proxmire on the floor of the United States Senate, January 31, 1967, in support of the Truth in Lending Bill (s.5) that he sponsored and introduced on January 11, 1967. <https://web.archive.org/web/20120415005111/http://www.llsdc.org/attachments/wysiwyg/544/TILA-LH-CR-1967-01-31.pdf>

The cost to financing companies to provide these disclosures will be low. In fact, most providers, and all consumer financing providers, already provide some type of analogous disclosures.<sup>26</sup> We note that the prominence of metrics within those disclosures as well as the timing at which borrowers receive those disclosures vary. Updating these existing disclosures to reflect the specific requirements the Department promulgates will not be unduly costly. It would entail an initial modification to come into compliance, followed by ongoing monitoring. Compliance with the consumer lending Truth in Lending disclosure requirements do not require any costly third-party vendor, specialized software, or other new expense. It is simply a part of the work of a compliance staff member.

Financing companies already have compliance staff to support compliance with the Federal Trade Commission Act and Unfair or Deceptive Acts and Practices (UDAP), the Equal Credit Opportunity Act (ECOA), the Telephone Consumer Protection Act (TCPA), the CAN-SPAM Act, the Fair Credit Reporting Act (FCRA), the Servicemembers Civil Relief Act (SCRA), the Uniform Commercial Code (UCC), Treasury OFAC and Fincen regulations, and a range of other state or federal laws and regulations. The work of assessing disclosures for compliance with SB 1235 will simply become a part of this work. Based on the experience of coalition members' compliance teams with TILA, we believe the required compliance work would be less than the work of one full-time-equivalent compliance member, and likely not require hiring additional staff. Similarly, the work to create or amend a disclosure would fall within existing responsibilities of legal, compliance, product and engineering professionals. Potential costs are discussed further below.

2. *All costs and benefits (direct, indirect, and induced) of the proposed regulations, calculated on an annual basis from the date the regulations are implemented through 12 months after implementation.*

To explore the potential cost savings (benefit) to the approximately 127,000 California small business owners who would likely select different financing upon receiving disclosures, we draw upon a 2019 study conducted by the Financial Health Network on behalf of Opportunity Fund, a nonprofit California microlender. Financial Health Network developed a quantitative model to simulate loan repayment scenarios for Opportunity Fund's loan products. For an average \$29,186 small business loan obtained online, the study found that over the life of the loan, small business owners saved 40-76% in financing charges when borrowing from a lower cost alternative (in this

---

<sup>26</sup> For example, Federal Reserve researchers compiled a list of the 10 most prominent online lenders and found that most already have some sort of disclosures in place. See: Lipman, Barbara and Wiersch, Ann Marie (2019)

case Opportunity Fund). Small businesses saved \$4,864 in total cost when compared to a short term online loan, and \$23,098 total cost when compared to a merchant cash advance.<sup>27</sup>

These findings suggest that on an annual basis, each of the 127,000 California small business owners who modify their credit seeking behavior due to disclosures may be able to save approximately \$4,864 to \$23,098. While the lower-end estimate of \$4,864 may not appear to be sizable savings to a larger enterprise, for the over two million CA firms with annual revenues of under \$100,000, even a savings of \$4,864 (nevermind a savings of over \$23,000) can be the difference between profitability and failure. These savings are particularly critical for underserved small business owners, including African American and Hispanic owned firms, who we estimate would comprise upwards of 50,000 of the business owners impacted.<sup>28</sup>

These findings indicate that California small businesses estimated to potentially select more affordable financing could save a total of \$617 million to \$2.9 billion annually.<sup>29</sup> However, we believe this is a conservative estimate because the model is based on a \$29,186 loan, however nearly half of California small business loan applications are for amounts between \$25,000 and \$250,000.<sup>30</sup> For larger loans, the savings in absolute dollars will likely be meaningfully larger.

Over time, the broader set of 400,000 firms seeking financing from covered providers may experience savings as a result of price transparency creating price competition and bringing prices down. Using the same estimates of financing costs as above, based on the Financial Health Network study, we estimate that a 1% to 20% reduction in prices could save small businesses between \$48 million and \$2.4 billion.<sup>31</sup>

Because small businesses are important drivers of regional economic activity, savings that accrue to individual business owners may in turn be reinvested in their businesses, purchasing goods and services from other businesses, generating new wages and new tax revenues. A study by

---

<sup>27</sup> The model incorporates borrower characteristics, loan terms, fees, cash flow volatility, and borrower behavior to create a typical profile for each borrower and product. The model used information from Opportunity Fund's lending policies and data to develop simple profiles of the "typical" loan for each segment – these consisted of the most common loan term, late fee amount and structure, etc. Given the borrower profile for an Opportunity Fund average online loan of \$29,186, the two primary alternative products available were determined to be 1) short-term online loans and 2) merchant cash advances. The model utilized publicly available information to determine the pricing and terms. For an average \$29,186 loan, the model found indicated a 76% saving when borrowing with Opportunity Fund (true cost \$7,335.00) over an MCA (true cost \$30,433.00) and a 40% (true cost \$12,199.00) saving over a short term online loan. See: Opportunity Fund and Financial Health Network (2019)

<sup>28</sup> See Table 1, row C

<sup>29</sup> See Table 1, row C.

<sup>30</sup> An additional 40% of CA employer firms apply for amounts between \$25,000-\$100,000 and 20% apply for \$100,000-250,000. See: Federal Reserve (2019)

<sup>31</sup> See Table 1, row B.

TXP Associates found that for every dollar lent to a California small or micro business generated nearly \$2 in annual, regional economic activity.<sup>32</sup>

We assume that funds saved by a business by accessing lower cost financing may be reinvested in their business (comparable to receiving additional financing) or potentially used for other purposes. Therefore, we conservatively estimate that an average small business owner will reinvest half of funds saved into their business, meaning each dollar saved results in approximately \$1 in additional, annual economic activity. Cumulatively therefore, in addition to the annual savings for small business owners described above, an additional \$665 million to \$5.4 billion in economic activity could flow through California's economy through direct, indirect and induced expenditure effects each year.

Without transparency, unaffordable financing can have a catastrophic impact on small businesses. All too frequently, coalition members including CDFIs, fintech companies, and small business support organizations speak with small business owners who have taken out financing that they cannot afford. For example, the Opportunity Fund study *Unaffordable and Unsustainable: The New Business Lending* found customers of high-rate online loans making payments that averaged 178% of the business's available net income.<sup>33</sup> The *average* loan in this set cost almost double what the small business could afford, pushing them into unprofitability. This can result in cycles of repeated borrowing in an effort to stay afloat, and eventually business closure. Our hope is that transparency will help reduce small business closure, and the resulting job losses and negative economic impact. However, lacking data on the scale of these business closures, we have not included the reduction of these negative economic impacts in this analysis.

We estimate that the cost to providers of coming into compliance with the proposed regulations for the first time, if not fully absorbed into the responsibilities of existing staff, could require the following:

---

<sup>32</sup> Opportunity Fund, "Ripple Effect: The Macroeconomic Impact of Small Business Lending," June 2016. [https://www.opportunityfund.org/wp-content/uploads/2019/09/Ripple-Effect\\_The-Macroeconomic-Impact-of-Small-Business-Lending\\_Opportunity-Fund\\_2016.pdf](https://www.opportunityfund.org/wp-content/uploads/2019/09/Ripple-Effect_The-Macroeconomic-Impact-of-Small-Business-Lending_Opportunity-Fund_2016.pdf)

<sup>33</sup> Opportunity Fund (May 2016)

Table 2: Estimated costs per financing provider, year 1

<u>Form of Cost</u>	<u>FTE</u>	<u>Estimated Annual pay</u>	<u>Cost</u>
Compliance staff, to assess proposed disclosure revisions	15%	\$150,000	\$22,500
Product staff, to scope and design disclosure updates	10%	\$175,000	\$17,500
Engineering, if presenting financing offers online	0-10%	\$225,000	\$0 - \$22,500
Total			\$0 - \$62,500

Our review of the market suggests that about 166 providers may be covered by SB 1235, suggesting total compliance costs of less than \$10.4 million in the initial year, and significantly lower in subsequent years.

The decision, for sales-based financing providers, to use the opt-in method of calculating APR would require some additional staff time for reporting data to the Department. However, this is entirely optional, to be used by providers who see this option as a business advantage.

3. *The creation or elimination of jobs within the state as a result of the proposed regulations.*

As small businesses save money on financing costs, they will be able to grow and hire more quickly. If 5-25% of small businesses' estimated \$665 million to \$5.4 billion in savings is invested in hiring new employees, this could create as many as 640 to 25,785 new jobs. This figure is derived assuming an average payroll cost per employee of \$51,971, based on California Employment Development Department data for California businesses with fewer than 100 employees.<sup>34</sup>

We do not anticipate the elimination of jobs within the state as a result of the proposed regulations. Any reduction in lending volume by one provider will likely be replaced by a growth in volume by another, potentially more affordable, provider, or it will be the result of small businesses determining that financing they are considering is unaffordable.

---

<sup>34</sup> See Table 1, row F.

4. The creation of new businesses or the elimination of existing businesses within the state as a result of the proposed regulations.

Disclosure of pricing not only allows small businesses to comparison shop more readily, it also helps small businesses decide whether they can afford the costs and meet the obligations of the terms of the loan. If a small business does not understand the true costs of a loan, they may undertake a debt burden which they cannot adequately manage thus forcing them to close. We believe that this proposed regulation will help reduce the elimination of small businesses.

In addition, as discussed above, increased price competition will create opportunity for innovative new small business financing providers, seeking to provide financing at a lower cost.

5. The competitive advantages or disadvantages for businesses currently doing business within the state as a result of the proposed regulations.

As Senator Proxmire described in introducing the federal Truth in Lending Act, a “...principle of truth in lending is that ethical businessmen, those who believe in a competitive free enterprise system, and who work to achieve their profits by offering quality and service--and not deception or confusion--will be aided by full disclosure. Obviously, however, the truth-in-lending bill does not help the unethical businessman who engages in deceiving or confusing or fooling or cheating the credit customer.”<sup>35</sup>

Financing providers that have relied on a lack of transparency to charge small businesses above the market rate will be at a disadvantage. They will likely respond by offering better or lower cost financing products, if able, or new or existing providers that do offer those products may absorb their market share. Financing providers that offer better rates to small businesses will have a competitive advantage.

Relative to businesses in states without the same transparency in financing costs, California small businesses overall will have a competitive advantage in their respective industries and markets. They will be able to comparison shop more effectively, and thereby receive lower cost options, save money, increase profits, and compete more effectively. .

---

<sup>35</sup> Senator Proxmire, William (Jan. 1967)

6. *The increase or decrease of investment in the state as a result of the proposed regulations.*

As a national leader in innovation and technology, California is well-suited to benefit from the investment opportunities created by increasing market efficiency. As price competition creates new opportunities for financing providers that offer a lower cost of capital, venture capital firms and other investors may seek to invest in providers that can use technology and innovation to offer small businesses financing at a lower price.

It is possible that high rate lenders that do not offer competitive pricing, or other value propositions that small businesses seek, may experience competitive pressure that reduce their revenue and or marketing/customer acquisition investments in the state. We believe this will lead lenders to offer better products, if able, in order to compete, resulting in better products for small businesses.

7. *The incentives for innovation in products, materials, or processes arising from the proposed regulations.*

The proposed transparency regulations will create price competition, incentivizing innovation that enables offering lower prices to small businesses. These innovations likely include technology and process innovation used by financing providers to operate at a lower cost. Financing providers will continue to have incentives to establish competitive advantages in other value propositions, such as speed of delivery or other factors that will attract more small business lending.

8. *The expansion of businesses currently doing business within the state as a result of the proposed regulations.*

As discussed above, small businesses will reinvest and expand their businesses with the savings that results from accessing more affordable financing. Lenders that offer competitive pricing will also enter the market as they will be able to gain market share.

9. *The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents.*

We believe the expected benefits of these regulations as mentioned above will benefit the financial health and welfare of small businesses, including the personal guarantors or owners of those businesses, through savings as a result of comparison shopping, appropriate product selection, and overall reduction in pricing of loans through market competition. To the extent that small and micro businesses represent the primary source of income for a household, some of the savings that accrue to that business will result in additional earnings for the household.

10. *The possible alternatives to the requirements imposed by the regulations, as well as a description of the costs and/or benefits of such alternatives.*

In 2015, the RBLC created the first cross-sector consensus on the rights that small business owners deserve and what financing providers, brokers and lead generators can do to uphold those rights, called the *Small Business Borrowers' Bill of Rights*.<sup>36</sup> This includes the first standards for transparency in disclosures. Nearly 60 small business lenders, brokers and lead generators have committed to uphold these rights and implement these disclosures, and nearly 50 advocacy and support organizations have endorsed these standards. Additionally, the Innovative Lending Platform Association (ILPA) created its own model disclosure box. We are proud of the work the industry has done to self-regulate, but self-regulation alone does not provide a set of uniform disclosures for borrowers to easily compare. Many high-cost lenders continue to resist disclosure of APR or Estimated APR, if it is not required by law. Thus, implementation of 1235 is necessary.

Again, Senator Proxmire spoke over fifty years ago directly to why APR is fundamental to transparency and free markets. “A crucial provision of the bill deals with expressing credit charges as an annual percentage rate. Without the knowledge of an annual rate it is virtually impossible for the ordinary person to shop for the best credit buy.” Just as in SB 1235, Senator Proxmire’s Truth in Lending Act addressed the need for occasional estimation as well. In cases when an exact APR cannot be calculated, the Truth in Lending Act, “makes it abundantly clear that lenders need only state an approximate annual rate and would not be held to absolute accuracy down to the last decimal point.”<sup>37</sup>

---

<sup>36</sup> The Small Business Borrowers’ Bill of Rights is available at: <http://www.borrowersbillofrights.org/bill-of-rights.html>

<sup>37</sup> In further explaining the importance of APR, the Senator described that, “The whole truth about the cost of credit really is not meaningfully available unless it is stated in terms that consumers in our society can understand. Just as the consumer is told the price of milk per quart and the price of gasoline per gallon, so must the buyer of credit be told the “unit price.” Historically in our society that unit price for credit has been the annual rate of interest or

Just as the Truth in Lending Act established transparency and more effective free enterprise in consumer credit, implementing SB 1235 will do the same for the benefit of California's small businesses. There are no sufficient alternatives--without these regulations, the benefits of transparency to small businesses and our economy will continue to be avoided by financing providers who prefer not to disclose the rates they charge. Without the specificity addressed in the proposed regulation, these benefits could be eroded by manipulation and gaming by providers.

The RBLC appreciates the opportunity to comment and looks forward to the Department implementing the first-in-the-nation commercial financing disclosure law. In light of all the benefits described, we urge the department to implement these regulations as soon as possible. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

1. The Responsible Business Lending Coalition  
Members include Accion US Network, Community Investment Management, Funding Circle, LendingClub, Opportunity Finance Network, Opportunity Fund, Small Business Majority, StreetShares, and the Aspen Institute
2. Access Plus Capital
3. Accion US Network
4. Accion San Diego
5. Agriculture and Land-based Training Association (ALBA)
6. Asian Business Association
7. Asian Pacific Islander Small Business Program (APISBP)
8. Bay Area Dev Company
9. Business Center for New Americans
10. California Association for Micro Enterprise Development (CAMEO)
11. California Asset Builder's Coalition (CABC)
12. California Capital Financial Development Corporation
13. California Hispanic Chamber of Commerce (CAHCC)
14. California Reinvestment Coalition (CRC)
15. California Small Business Development Center (SBDC) - Valley Community
16. CDC Small Business Finance
17. Colorado Lending Source
18. Community Vision Capital & Consulting
19. The CraneWorks

---

finance charge applied to the unpaid balance of the debt. Without easy knowledge of this unit price for credit, it is virtually impossible for the ordinary person to shop for the best credit buy. This is true, of course, because different offerings of credit may vary with respect to the amount of debt, the number of payment periods under which it is to be repaid, and the amount to be paid per period." See: Senator Proxmire, William (Jan. 1967)

20. El Pajaro Community Development Corporation
21. Fresno Metro Black Chamber of Commerce
22. Fresno Economic Opportunities Commission
23. Fresno Area Hispanic Foundation
24. Funding Circle
25. The Greenlining Institute
26. Human Scale Business
27. Inclusive Action for the City
28. Inner City Advisors
29. International Rescue Committee San Diego
30. Justine Petersen
31. LendingClub
32. Main Street Launch
33. The Marketplace Lending Association
  - Members include LendingClub, Prosper, Funding Circle, Avant, Marlette Funding, Affirm, Common Bond, Upstart, Peer Street, Lending Point, College Ave, and SoFi
34. Maximum Reach For Economic Equity
35. Mission Economic Development Agency (MEDA)
36. Multifunding
37. Nav
38. Oakland African American Chamber of Commerce
39. Opening Doors Inc.
40. Opportunity Finance Network
41. Opportunity Fund
42. Pacific Asian Consortium in Employment (PACE)
43. Pacific Coast Regional Small Business Development Corp
44. Prospera
45. Public Law Center (PLC)
46. Renaissance Entrepreneurship Center
47. Small Business California
48. Small Business Majority
49. Wadeco Business Center
50. Women's Economic Ventures (WEV)
51. The Woodstock Institute
52. Working Solutions