

 **RESPONSIBLE BUSINESS LENDING COALITION**



July 20, 2020

The Honorable James Sanders Jr.  
Chairman of Banks Committee  
New York State Senate

The Honorable Thomas Abinanti  
Chairman of Banks Committee  
New York State Assembly

**Re: A10118 / S5480 New York State Small Business Truth in Lending Act – SUPPORT AS AMENDED**

Dear Chairman Sanders and Chairman Abinanti:

We, the undersigned, write to proudly endorse the *New York State Small Business Truth in Lending Act* (A10118 / S5470) that is projected to bring up to **\$1.75 billion in savings to over 75,000 New York small businesses, including hundreds of millions in savings for over 26,000 minority-owned small businesses.** 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 currently afforded to small businesses seeking financing – a problem requiring urgent action, particularly in light of COVID-19.

Businesses are desperately searching for financing to bridge losses in revenue due to the pandemic, cover immediate expenses, and avoid closure. As New York State law does not require small business financing companies to clearly disclose the price and terms of financial products to prospective borrowers, businesses are left to make potentially make-or-break financial decisions with incomplete information. During this time of crisis, choosing an unaffordable financial product could be the difference between success and failure for our businesses that are already closing at high rates due to COVID-19 induced business interruptions.

Today, some financing companies are charging small businesses annual percentage rates (APR) that can average 94%, and even up to 350%, in payday-like cycles of reborrowing **without ever disclosing those APRs to the borrowers.**<sup>1</sup> Due to a lack of transparency standards, small business financing providers are not currently required to disclose an APR or other key terms. 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.”<sup>2</sup> Without the APR, businesses are unable to compare the cost of payday-like advance products with credit card financing or term loans. The New York State Department of Financial Services has noted “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.<sup>3</sup> Moreover, Federal Reserve research indicates that Black- and Hispanic-owned businesses are twice as likely to apply for “potentially higher-cost and less-transparent credit products.”<sup>4</sup>

Now, small business owners facing financial crises contend with unsolicited calls, emails, and faxes promising fast cash without disclosing the true price. To ensure that New York small businesses are able to access the capital they need to survive without deception, we strongly urge you to support the *New York State Small Business Truth in Lending Act* (A10118 / S5470) introduced by Senator Thomas and Assemblyman Zebrowski. A10118 / S5470 would require nonbank small business financing providers to clearly disclose APR and other key terms that enable borrowers to compare different financing offers and make informed decisions. Perhaps even more importantly, this legislation requires financing companies to disclose their price and terms upfront, while the borrower is still comparison shopping. Too often, financing companies do not present contract terms until the end of the loan closing process, when small business borrowers have already committed expected funds and are unable to walk away.

Predatory, high-cost financing companies that do not disclose their price and terms upfront present a potentially devastating and unnecessary risk to small businesses that are the foundation of our state’s economy. Small businesses account for 99.8% of all New York businesses, employ over half of the state’s workforce, and are now closing in record numbers due to the pandemic.<sup>5</sup> As small businesses desperate for financial relief are especially vulnerable to high-cost, less-transparent financing, it is critical that the New York State Legislature act quickly to pass A10118 / S5470 and provide small businesses with the transparent disclosures they deserve.

A10118 / S5470 would set the nation’s strongest commercial lending disclosure requirements, just when small businesses need protection the most. Once implemented, A10118 / S5470 could enable **over 75,000 New York small businesses to save between \$369 million and \$1.75 billion annually, including more than 26,000 minority-owned businesses who will save \$130 million to \$618 million per year**, by empowering business owners with transparent

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<sup>1</sup> Opportunity Fund, “Unaffordable and Unsustainable: The New Business Lending,” 2016.

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

<sup>2</sup> Consumer Financial Protection Bureau, “Credit cards key terms.” <https://www.consumerfinance.gov/consumer-tools/credit-cards/answers/key-terms/>

<sup>3</sup> New York State Department of Financial Services, “Online Lending Report,” 2018.

[https://www.dfs.ny.gov/docs/reportpub/online\\_lending\\_survey\\_rpt\\_07112018.pdf](https://www.dfs.ny.gov/docs/reportpub/online_lending_survey_rpt_07112018.pdf)

<sup>4</sup> Federal Reserve, “Small Business Credit Survey: Report on Minority-Owned Firms,” 2016.

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

<sup>5</sup> 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>

price disclosures while they are comparison shopping.<sup>6</sup> We estimate that these businesses will choose lower-cost financing when provided with universal price disclosures promptly at the time of approval, including APR that enables borrowers to make apples-to-apples comparisons of products with different pricing and terms.

We applaud Senator Thomas and Assemblyman Zebrowski's leadership to protect small businesses from deception and provide borrowers with the transparent disclosures they need to make informed financing decisions. We urge you to offer your strong support for A10118 / S5470 and to encourage the Senate and Assembly Banks Committees to advance the bill favorably, at the earliest opportunity. For more information, please do not hesitate to contact us at [info@borrowersbillofrights.org](mailto: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. 3Es Consulting Group
3. Accion Opportunity Fund
4. Anchor Financial Services
5. The Blackwall Street Corporation
6. Bluez Oils Inc
7. BOC Capital Corp.
8. Business Center for New Americans
9. The Business Council of Westchester
10. CAMEO Network
11. Capital CFO
12. CBR Improvement Strategies, LLC
13. Center for NYC Neighborhoods
14. CMR Communications
15. Community Capital New York
16. Community Development Venture Capital Alliance
17. Community Investment Management
18. Community Loan Fund of the Capital Region
19. The Dutch Pot LLC
20. Endorphin Advisors LLC
21. Fresh Neighborhood Market
22. Funding Circle
23. Greater Jamaica Development Corp
24. Guilderland Chamber of Commerce
25. Habitat for Humanity NYC Community Fund
26. The Hair Hive
27. Harlem Entrepreneurial Fund
28. Head Heart Hands Consulting LLC
29. Hill & Markes
30. Hot Bread Kitchen
31. Human Scale Business

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<sup>6</sup> RBLC's economic impact projections based on New York State small business data from the U.S. Census Bureau [<https://www.census.gov/quickfacts/fact/table/NY,US/PST045219>] and credit use assumptions from Federal Reserve data [<https://www.fedsmallbusiness.org/survey/2020/report-on-employer-firms>, <https://www.fedsmallbusiness.org/survey/2019/report-on-non-employer-firms>] and Opportunity Fund research [<https://marketing.opportunityfund.org/acton/attachment/32187/f-e691097b-f3f9-4f2b-8a92-045d6869c9c8/1/-/-/-/True%20Cost%20of%20Capital%20.pdf>]

32. Jefferson Economic Development Institute
33. Justine PETERSEN
34. La Fuerza Unida CDC
35. LendingClub
36. Leviticus Fund
37. Lighter Capital
38. Lockdown Security Services
39. 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
40. Michael Roach Creative
41. MultiFunding
42. National Urban League
43. Nav
44. New York State CDFI Coalition
45. NextStreet
46. Opportunity Finance Network
47. Opportunity Fund
48. Oswego County Federal Credit Union
49. PathStone Enterprise Center
50. Pursuit
51. Small Biz Silver Lining
52. Small Business Majority
53. SMB Intelligence
54. Spring Bank
55. StreetShares
56. Tech Valley Shuttle
57. This Week in Fintech
58. TruFund Financial Services, Inc.
59. United Way of the Greater Capital Region
60. Upstate Minority Economic Alliance (UMEA)
61. UpState New York Black Chamber of Commerce
62. Chairman of the Westchester County Board of Legislators Benjamin Boykin
63. Vice Chair of the Westchester County Board of Legislators Alfreda A. Williams
64. Westchester County Legislator Nancy E. Barr
65. Westchester County Legislator Catherine Borgia
66. Westchester County Legislator Terry Clements
67. Westchester County Legislator Kitley S. Covill
68. Westchester County Legislator Lyndon Williams
69. Woodstock Institute

Cc:

Temporary Senate President and Majority Leader Andrea Stewart-Cousins  
Assembly Speaker Carl Heastie  
The Honorable Senator Thomas  
The Honorable Assemblyman Zebrowski