



## State Policy Recommendations

The Responsible Business Lending Coalition comprises a multi-sector set of organizations that have come together to address small business' need for access to capital, and the rise of irresponsible small business lending practices.<sup>1</sup> In 2015, we created the *Small Business Borrowers' Bill of Rights*,<sup>2</sup> the first cross-sector consensus defining the responsible lending practices that all small businesses deserve, and has been signed by over 80 for-profit and nonprofit lenders; fintech companies; advocacy and community organizations; investors; think tanks; brokers, community banks, and CDFIs.

We offer the following state policy recommendations to improve small businesses' access to capital and prevent harm to small businesses from the irresponsible lending that is now taking place:

1. Create a Truth in Lending Act for small businesses
  - *Why*: It has become common for small business financing to be provided at very high cost, with no interest rate or APR ever disclosed.<sup>3</sup> Research by the Federal Reserve indicates that businesses owners often misunderstand the price they are paying.<sup>4</sup>
  - *Recommended disclosures*: Required disclosures should include APR, all upfront and scheduled charges, loan amount, total amount provided to the borrower after deducting fees or charges, payment amount and frequency, total monthly payment amount (if payment frequency is other than monthly), collateral requirements, and any prepayment charges.
  - *Manner of disclosure*: These items should be presented in writing, at the stage when the financing is offered (such as in an initial term sheet, as well as at closing), in a form that is clear, complete, and easy to compare with other options.
  - *Prohibit abusive practices*: including "double dipping" and hidden prepayment charges
  - *Applicability*: Small business financing regulation should apply to both loans and cash advances. "Small business financing" can be defined as commercial financing below \$1M, excepting financing to businesses with \$5M annual revenue or more.
  
2. Pass a resolution in support of the *Small Business Borrowers' Bill of Rights*
  - *Why*: A resolutions would alert small business owners of the rights they should demand when borrowing, to help them avoid predatory or irresponsible lending.
  - The *Small Business Borrowers' Bill of Rights* is online at [www.ResponsibleBusinessLending.org](http://www.ResponsibleBusinessLending.org).
  
3. Learn from subprime mortgage crisis and require registration and duty of care of brokers
  - *Why*: Just as with subprime mortgages brokers before 2008, small business brokers have the financial incentive to steer borrowers into the most expensive loans.
  - *Recommendation*: Require small business brokers to register with the State, and disclose to borrower all compensation they would receive from products they suggest. Establish a "duty of care" brokers will exhibit, as enacted in mortgage law to address the same problem.

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<sup>1</sup> Members include Accion, the Aspen Institute, Community Investing Management, Funding Circle, Fundera, Opportunity Fund, LendingClub, and Small Business Majority.

<sup>2</sup> Read the *Small Business Borrowers' Bill of Rights* at [www.ResponsibleBusinessLending.org](http://www.ResponsibleBusinessLending.org)

<sup>3</sup> The APRs of some financing products are commonly above 50%, and can reach over 300%. See "Unaffordable and Unsustainable: The New Business Lending on Main Street." Opportunity Fund, May 2016.

<sup>4</sup> "Alternative Lending Through the Eyes of 'Mom & Pop' Small-Business Owners." Federal Reserve Bank of Cleveland, August 2015.