

# **Small Business Lending Disclosure and Broker Regulation Act of 2020**

## **Section-by-Section**

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### **Section 1. Short Title**

- This Act may be cited as the *Small Business Lending Disclosure and Broker Regulation Act of 2020*.

## **Title I-Small Business Financing**

### **Section 101. Application of the Truth in Lending Act to Small Business Financing**

- Amends the Truth in Lending Act by adding, at the end, a new chapter, CHAPTER 6- SMALL BUSINESS FINANCING. CHAPTER 6 incorporates new Sections 191-195.

### **§191.Defintitions**

- Defines pertinent terms commonly associated with small business financing and applies such terms to CHAPTER 6.
- Defines the term “Small Business Financing” as:
  - Any line of credit, closed-end commercial credit, sales-based financing, or other non-equity obligation or alleged obligation of a partnership, corporation, cooperative, association, or other entity that is \$2.5 million or less; and
  - Does not include any obligation or alleged obligation of an individual that is primarily for personal, family, or household purposes.

### **§192. Application of this title to small business financing**

- Applies the Truth in Lending Act, as amended by this Act, to financing made available to a small business to the same degree credit is made available to a consumer.
- Provides the Consumer Financial Protection Bureau (“CFPB”) with the same oversight authority with respect to small business financing as the CFPB has with respect to consumer financial products and services.
- Requires the Director of the CFPB to issue such rules as may be necessary to carry out CHAPTER 6.

### §193. Additional Disclosures

- Requires that any provider offering financing to a small business disclose the following pieces of information to a recipient at the time an offer is made:
  - Financing Amount;
  - Annual Percentage Rate (APR);
  - Payment Amount;
  - Term;
  - Financing Charge;
  - Prepayment Cost or Savings;
  - Collateral Requirements.

### §194. Restrictions on double-dipping

- Restricts a provider of small business financing from charging a fee on a small business borrower's outstanding principal when refinancing or modifying an existing loan.

### §195. Additional provisions

- Ensures that a provider of small business financing may disclose such additional information beyond what is required in Section 193 if the provider feels such additional information is necessary.
- Requires that when a provider of small business financing states, in writing, at the time of the offering, the rate of financing to be offered or the financing amount, the lender state the 'Annual Percentage Rate' or 'APR' abbreviation with equal or greater prominence as such other terms.

## **Title II-Regulation of Brokers**

### **Sec. 201. Office of Broker Regulation**

- Amends the Consumer Financial Protection Act to establish a new office at the CFPB, the Office of Broker Regulation.

### **Sec. 202. Regulation of Brokers**

- Amends the Consumer Financial Protection Act to provide the Office of Broker Regulation, established at the CFPB, with oversight authority of brokers of small business financing.
- Defines a ‘Small Business Broker’ as a person who is:
  - Not a creditor;
  - Solicits and presents offers of commercial financing on behalf of a third party.
- In facilitating financing offered by a third-party lender, requires that a broker:
  - Educate the small business borrower on each financing option that may be available and ensure the borrower reasonably understands the costs and terms of the financing as well as the pros and cons of the financing before entering into the contract.
  - Provide the borrower with the disclosure of such information as the statute requires.
- Requires the broker to provide the small business borrower with the following disclosures:
  - A list of all small business financing options for which the small business qualifies;
  - The lowest Annual Percentage Rate option;
  - A list of all the lenders the broker has sent small business financing applications to on behalf of the borrower;
  - All compensation that will be paid to the broker;
  - All conflicts of interest the broker may have;
  - A breakdown and explanation of the broker’s fee structure.
- Requires the broker to post clearly and prominently on their website an anonymous list of previous small business borrowers who have obtained financing through the broker’s services.

- Requires the Director of the CFPB to establish a public facing complaints database with collected complaints against small business brokers.
- Prohibits a broker that is paid higher fees with certain lenders from stating to a small business borrower that they are acting in the borrower's best interest. Similarly, a broker is prohibited from steering a small business borrower into a financing option that is not in the borrower's best interest.
- Restricts a broker from charging a fee for their services if the broker is unable to find, or the small business borrower does not accept, financing through the broker's services.
- Prohibits a person from acting as a broker of small business financing unless they obtain a professional license from the state in which they are operating.
- Requires each state to establish a small business broker licensing law, with regular examinations and enforcement mechanisms, to regulate small business brokers operating within their borders.
  - Each state small business broker licensing law must be certified by the Director of the CFPB;
  - No later than 12 months after the date of enactment, the Director of the CFPB shall establish a federal small business broker licensing law to cover any state or states that do not have a state small business broker licensing law.