RESPONSIBLE BUSINESS
LENDING COALITION

March 9, 2022

Delegate Kathy K.L. Tran
Pocahontas Building, Room E216
Richmond, VA 23219

RE: Opposition to HB 2017 (Financial Institutions; sales-based financing providers)

Dear Delegate Tran:

The Responsible Business Lending Coalition (RBLC) writes today regarding HB 1027 as passed by the Virginia State legislature. While we commend your leadership and commitment to address the critical need for small business financing transparency, we cannot support HB 1027 as passed because it does not require disclosure of annual percentage rate (APR) and does not require transparency from all small business finance providers.

The undersigned organizations represent members of the Responsible Business Lending Coalition, a leading cross-sector voice on small business financial protection. The coalition includes nonprofit and for-profit fintechs, CDFIs, investors, and small business advocates who all share a commitment to innovation in small business lending as well as serious concerns about the rise of irresponsible small business lending.

Currently, the federal Truth in Lending law requires that consumer creditors disclose critical financing information, including APR, in a clear and comparable format; however, no such standard exists to protect millions of small business owners. While HB 1027 aims to deliver transparency for small businesses in their search for capital, the bill does not include the disclosures and metrics to ensure that small businesses have the information they need to make informed decisions.

Most importantly, the bill does not require that APR be disclosed for small business loan products. Research indicates that too many small businesses are paying APRs of 94%, and as high as 350%, without these high rates being properly disclosed. APR is the only established metric that enables informed comparisons of the cost of capital over time and between products of different dollar amounts and term lengths. APR is the time tested rate that people know and expect because it is the legally

required standard for mortgages, auto loans, credit cards, student loans and personal loans, including short-term loans. Without APR, the bill does not provide new information to small businesses. Instead, it reinforces the status-quo of inadequate disclosures and provides the merchant cash advance (MCA) industry with ammunition to fight against meaningful truth in lending disclosures that includes APR in other states.

The legislation also does not cover financing products other than MCAs. That means when small businesses are shopping for capital they will not be able to make an apples-to-apples comparison across lenders. Without standardization of disclosure requirements across lenders, small businesses are more likely to choose higher-cost products. For instance, a research study found that when asked to compare a sample short-term loan product with a 9%"simple interest" rate to a credit card with a 21.9% interest rate, most participants in the study incorrectly guessed the short-term loan to be less expensive. This is why including both APR and other financing products in the legislation will better protect small businesses. What's more, a Federal Reserve study demonstrated small businesses, particularly Black and Hispanic-owned businesses, are more likely to use "high-cost" and "non-transparent" financing, referring specifically to MCAs as well as factoring products.

Although HB 1027 was based on New York's small business loan transparency legislation, which we strongly supported, it did not adopt the entirety of it, and therefore undermines the goal of what it aims to do: protect small businesses. We would appreciate the opportunity to work with you and your colleagues serving the Commonwealth moving forward. We hope to advance strong small business financing disclosure legislation that, like the legislation adopted in New York, requires APR disclosure and establishes a standardized disclosure regime for all providers of small business financing.

Cc: Governor Glenn Youngkin

Sincerely,
The Responsible Business Lending Coalition