

 **RESPONSIBLE BUSINESS LENDING COALITION**



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**.¹ 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.”² 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.³ 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.”⁴

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

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

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

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

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

https://www.dfs.ny.gov/docs/reportpub/online_lending_survey_rpt_07112018.pdf

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

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

closing in record numbers due to the pandemic.⁵ 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 price disclosures while they are comparison shopping.⁶ 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.

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. Alfreda A. Williams, Vice Chair of the Westchester County Board of Legislators
5. Anchor Financial Services
6. Benjamin Boykin, Chairman of the Westchester County Board of Legislators
7. The Blackwall Street Corporation
8. Bluez Oils Inc
9. BOC Capital Corp.
10. Business Center for New Americans
11. The Business Council of Westchester
12. CAMEO Network
13. Capital CFO
14. Catherine Borgia, Westchester County Legislator
15. CBR Improvement Strategies, LLC

⁵ 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>

⁶ 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>]

16. CMR Communications
17. Community Capital New York
18. Community Development Venture Capital Alliance
19. Community Investment Management
20. Community Loan Fund of the Capital Region
21. The Dutch Pot LLC
22. Endorphin Advisors LLC
23. Fresh Neighborhood Market
24. Funding Circle
25. Greater Jamaica Development Corp
26. Guilderland Chamber of Commerce
27. Habitat for Humanity NYC Community Fund
28. The Hair Hive
29. Harlem Entrepreneurial Fund
30. Head Heart Hands Consulting LLC
31. Hill & Markes
32. Hot Bread Kitchen
33. Human Scale Business
34. Jefferson Economic Development Institute
35. Justine PETERSEN
36. Kitley S. Covill, Westchester County Legislator
37. La Fuerza Unida CDC
38. LendingClub
39. Leviticus Fund
40. Lighter Capital
41. Lockdown Security Services
42. Lyndon Williams, Westchester County Legislator
43. 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
44. Michael Roach Creative
45. MultiFunding
46. Nancy E. Barr, Westchester County Legislator
47. National Urban League
48. Nav
49. New York State CDFI Coalition
50. NextStreet
51. Opportunity Finance Network
52. Opportunity Fund
53. Oswego County Federal Credit Union
54. PathStone Enterprise Center
55. Pursuit
56. Small Biz Silver Lining
57. Small Business Majority

58. SMB Intelligence
59. Spring Bank
60. StreetShares
61. Tech Valley Shuttle
62. Terry Clements, Westchester County Legislator
63. This Week in Fintech
64. TruFund Financial Services, Inc.
65. United Way of the Greater Capital Region
66. Upstate Minority Economic Alliance (UMEA)
67. UpState New York Black Chamber of Commerce
68. Woodstock Institute

Cc:

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