

January 23, 2024

The Honorable Jeff Longbine, Chairperson
Senate Committee on Financial Institutions and Insurance
State of Kansas
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

RE: Opposition to Kansas SB 345, Commercial Financing Disclosure Act

Dear Chair Longbine, Vice Chair Fagg, Ranking Members Holscher and Pittman, and members of the Financial Institutions and Insurance Committee:

AltCap writes today in opposition to SB345, the *Commercial Financing Disclosure Act* as introduced. AltCap is committed to expanding access to responsible financing options for business owners in Kansas and nationwide. We commend Kansas's lawmakers for their efforts to promote a healthy and transparent small business financing marketplace in the state. Unfortunately, as currently written, SB 345 would fail to provide business owners with the transparency they need to make informed decisions about their financing options. In fact, by failing to require a provider to disclose an annual percentage rate (APR) or estimated APR for their products, the bill would facilitate the same harmful and deceptive practices that trap small business owners in unsustainable debt that threaten their livelihoods.

More than 100 small business lenders, brokers, lead generators, and advocacy organizations from across the United States have endorsed the [Small Business Borrowers' Bill of Rights](#) and agreed to uphold them. The first right identified in the BBoR is the Right to Transparent Pricing and Terms, which calls for small business financing providers to clearly disclose seven key terms (including APR or estimated APR) when offering financing. Business owners have come to expect APR and other standard information for financing products since this information has been legally required for consumer products for more than 50 years under the federal Truth in Lending Act (TILA). Since TILA doesn't apply to business financing, companies can legally charge triple-digit annual percentage rates (APRs) without ever disclosing these rates to business owners.¹ In the absence of required disclosures for business finance products, companies commonly advertise novel pricing terms such as "simple interest" and "factor rate." Research from the Federal Reserve reveals that business owners often confuse these terms with APR and mistakenly select costlier products based on this information.² APR is the only pricing metric that enables true comparison between products, regardless of the amount, term length, payment period, or combination of interest and fees.

APR can be calculated for a range of financing products regardless of their structure, fees, or term length. That's why companies providing a range of innovative financing products for consumers have been disclosing APR or estimated APR for decades as required under TILA. Many commercial financing providers across the country, including signatories of the Small Business Borrowers' Bill of Rights, already disclose APR for various types of small business financing. The CEO of the Structured Financing Network, a leading trade organization representing factoring and asset-based small business financing companies, said on the record in 2023 that [his organization would not oppose California's APR disclosure requirements](#) (View at 1:04:50). Like

¹ Unaffordable and Unsustainable: The New Business Lending on Main Street. Accion Opportunity Fund, 2016 <https://aofund.org/news/unaffordable-and-unsustainable-new-business-lending/>

² Source: Federal Reserve Bank of Cleveland, "Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites," December 2019 <https://www.clevelandfed.org/publications/cd-reports/2019/sr-20191219-uncertain-terms>

the federal TILA bill, California’s regulations provide guidelines for disclosing estimated APR for products that don’t have a fixed term and alert customers to the fact that their actual costs might differ. Rapid Finance, a leading merchant cash advance company, sells software that enables any merchant cash advance company to automate these Estimated APR computations.³

Entrepreneurs need more financing options that will help their businesses thrive, not force them out of business. By requiring comprehensive small business finance disclosures, including APR, Kansas lawmakers would support a healthy business financing market that rewards finance providers for offering the most innovative and affordable products, rather than devising the most misleading pricing information. Financing companies that currently offer costly products with misleading price disclosures may lose business when transparency reveals their prices to be uncompetitive. This would enable more responsible, affordable capital options to enter the market to better support business owners.

As a member of the Financial Institutions and Insurance, we urge you to oppose SB 345 in its current form and amend the bill to include APR among the critical information small business owners need to compare and select the best financing option for their needs. We are happy to be a resource to you as you consider improvements to the bill in support of Kansas’s small business owners.

Sincerely,

Miles Zeller
Policy and Advocacy Coordinator



³ Will Tumulty, CEO of Rapid Finance, described their calculator as giving Industry “the tools they need to help ensure that they can continue to efficiently and compliantly meet the financing needs of their customers.” Businesswire, [Rapid Finance Announces Availability of API Service to Support State-Level Business Lending Disclosure Requirements](https://tinyurl.com/4suct43f) (Dec. 9, 2022, 7:01 AM), <https://tinyurl.com/4suct43f>.