

March 23, 2023

House Economic Matters Committee  
11 Bladen St  
Annapolis, Maryland 21401  
Re: Testimony in STRONG SUPPORT of SB496

Honorable Members of the House Economic Matters Committee,

Thank you for this opportunity to provide testimony in Strong Support of SB 496 on Commercial Financing Transactions. The Responsible Business Lending Coalition is the leading small business financial protection organization in the country, and the only coalition on this issue that includes both industry AND nonprofit leaders. The Responsible Business Lending Coalition led the first small business Truth in Lending laws in the US, in California and New York, and offers its strong support for this bill.

I also serve as an appointed member of the federal Consumer Financial Protection Bureau (CFPB) Consumer Advisory Board, as a Senior Fellow at the National Community Reinvestment Coalition, and am the former Sr. Director of Public Policy at LendingClub, one of the largest online lenders in the nation.

I launched LendingClub's small business lending program in 2014 to offer lower-cost, transparent loans to businesses often underserved by other banks. I soon saw that small businesses are now inundated with offers of capital—often from a narrow segment of financing companies that charge high APRs and do not disclose those rates to their customers, and who now generally comprise the opposition to this truth in lending bill.

At LendingClub, we were often the lowest-priced lender available to a given small business. However, I found it was difficult to compete with higher-cost priced lenders who were not transparent about their prices, because small business customers were not able to tell which financing offers were more or less expensive. That is one reason this bill is needed. Without transparent price disclosure, competition cannot bring prices down.

This bill does not outlaw any products or restrict access to capital in any way. It simply requires price transparency, including the disclosure of the Annual Percentage Rate (APR).

There is a simple reason why small business groups, the greater part of industry, researchers and officials of the Federal Reserve, and civil rights groups all agree that APR is the standard for transparent disclosure. This is because APR is the only metric that enables apples-to-apples comparisons of products of different types, amounts, and lengths. Unlike any other approach, APR has also been vetted in over 50 years of the federal Truth in Lending Act. The need for transparency IS the need for APR disclosure. There is no effective price transparency without disclosure of APR.

You may hear opposition from companies offering merchant cash advances who say that they cannot estimate APRs and disclose them. That is incorrect. Some merchant cash advance providers already do disclose APR across the country. All merchant cash advance providers are required to disclose APRs by law in California and New York.

To calculate APR, whatever the form of financing, companies use the same formula set out in the Truth in Lending Act. It's algebra: you plug in how much money you get, how much you pay, and when, and you get an APR.

Companies offering sales-based financing will need to plug in some estimates. These companies have the estimates they need already. Financing companies do not give away money with no expectation of when that money will come back to them. SB 496 also provides two methods to guide these estimations, in the same approach NY and CA took.

Without transparent disclosure of the APR, a prospective borrower could not quickly compare the cost of borrowing, for example, a five-year term loan with a 15% interest rate and \$3,000 origination fee, a 12-month cash advance with a 4% fee rate, to a credit card with a 24.9% interest rate. Which of these would you choose? Without APR, there's no basis for apples-to-apples price comparison. With APR disclosure, you might find that the first offer has an APR of 19%, the second has an APR of 45%, and the third has an APR of 24.9%. A small business can determine which financing is the lowest price, over time.

Irresponsible lending is taking down small businesses in your districts. I spoke with Kara DePietro, CEO of a manufacturing company in Columbia. Her company produces materials for commercial interiors, including for Johns Hopkins University and the US Capitol.

Ms. Depietro is a savvy businesswoman—she was named Maryland Small Business Owner of the Year by the SBA. She told me that when she took a new round of financing, the contracts seemed clear. But they turned into a whack-a-mole of lies, as she explained. A series of inter-related financing companies hooked her by sending her less than the agreed-on amount of money. As she tried get the full amount, they pulled her through a goose chase of refinances, adding new fees each time.

Her contract had focused on price of 10%, but this wasn't a real APR. Her lawyers later figured out that the APR was 200%, though it was never disclosed. At the end of the day, this financing lost her hundreds of thousands of dollars of businesses, as her company spent 3 years in survival mode, fighting off these predatory lenders instead of growing and creating jobs in Maryland.

I urge you to advance this bill. Small businesses are depending on it. Thank you.

Louis Caditz-Peck