Maryland
DEPARTMENT OF LABOR

OFFICE OF FINANCIAL REGULATION
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BALTIMORE, MARYLAND 21201
ANTONIO P. SALAZAR, COMMISSIONER

February 11, 2025

House Economic Matters Committee
Chair: Delegate CT Wilson
House Bill 693 - Commercial Financing - Small Business Truth in Lending Act

Re: Letter of Information

House Bill 693 creates a regulatory regime for "commercial financing" transactions – as defined by the bill. This regulatory regime establishes certain requirements surrounding these transactions, such as those related to disclosures, annual percentage rate calculations, repayment terms, extensions of special offers, and other related requirements. This new regime falls under the regulatory and enforcement authority of the Office of Financial Regulation ("OFR"). Specifically, "providers" of commercial financing (also defined by the bill) will be subject to a certain review process, which must be established by the OFR, as they will be required to notify the OFR as to which method the provider intends to use when calculating the estimated annual percentage rates for each transaction.

Further, on or before January 1 of each year, providers must report to the OFR on those estimated annual percentage rates (APRs) given to each participant, and the actual APRs of each completed transaction, along with any other information the Commissioner considers necessary. It is worth noting that some states that have adopted similar laws have chosen to require providers to report APRs given to each participant and some states have chosen not to require this.

The bill provides that the OFR shall adopt regulations substantially similar to the in-depth regulations adopted in February 2023 by the New York State Department of Financial Services regarding commercial financing (see 23 NYCRR 600). The bill also provides that violations of its mandates are subject to enforcement and civil penalties. Both of these requirements will require OFR to allocate time and resources for the drafting and implementing of new regulations, the on-going collection, monitoring, and evaluation of information, responding to anticipated complaints, and increased enforcement if appropriate. OFR is not able to implement such a new program without additional financial and personnel resources.

House Bill 693 does not include a formal licensing and/or registration regime and therefore produces no new revenue for the OFR to compensate for the anticipated expenses in standing up and operating a new program. Therefore, unlike other entities regulated by OFR, entities providing commercial financing services will not contribute to the State's cost of supervision and oversight. The lack of licensing and/or registration regime makes it more difficult for the OFR: to monitor and track these business entities; assure submission of required data and/or reports; investigate and resolve any complaints received; and implement other requirements of the bill. The bill mandates no specific connection with the Nationwide Multistate Licensing System ("NMLS"), upon which the OFR relies to carry out its supervisory activities. This deficit adds further difficulties to operationalizing the requirements of this bill from a monitoring, investigatory and enforcement perspective. Thus, the OFR anticipates significant costs and technological expenditures to develop electronic systems for submitting, processing, and utilizing required data and/or reports. Additionally, OFR will need to devote resources to

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implementing the bill, responding to borrower complaints and engaging in enforcement activities related to this new authority.

Although the bill contains penalties for violations, according to statute, such penalties are required to be forwarded to the general fund. This bill would not add to the Non-Depository Special Fund and the need for additional staff would reduce the Fund. By consequence, this would mean that other businesses regulated by OFR would be subject to increased costs to support the regulation of the businesses at issue under this proposed legislation. Hence, OFR submitted a fiscal note outlining the costs associated with the hiring of one new examiner to handle this new program.

This bill will likely positively impact some Maryland small businesses. The product standards and lending regime established by this bill can be expected to give small businesses the ability to utilize sales-based financing products in a transparent and affordable manner.

The commercial lenders that are subject to this bill would incur additional costs associated with preparing reports on annual percentage rates to submit to OFR.