

Testimony in Support of SB 754 Small Business Truth in Lending Act (Kramer)

February 18 2025

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Support for SB 754 is exceptionally broad. It's a compromise among many constituencies who rarely all agree:

- Small Business trades
- Industry (Bank *and* fintech trades)
- Nonprofits (Civil rights groups, advocacy nonprofits, nonprofit lenders)



We need this bill because today, Maryland small business owners are being overcharged an estimated:

- **\$237 MILLION IN UNNECESSARY INTEREST AND FEES—EACH YEAR.**
Of this, Black business owners are being overcharged an estimated \$72 Million, and Hispanic business owners an estimated \$26 million—each year.¹
- **WE CAN HELP SMALL BUSINESSES OWNERS KEEP THE WEALTH THEY CREATE** to grow their dreams, build generational wealth, send kids to college, give raises to employees, and hire in communities.

¹This estimated is the \$4,864 to \$23,098 per loan that small businesses are routinely overpaying when lower-price options are available (per Financial Health Network research), multiplied by the number of small businesses in NY and CA (per US Census) who are seeking capital online and who also say the price of financing is a top priority for them (per Federal Reserve Small Business Credit Survey).

HERE IS THE DISCLOSURE the bill requires →

This is from a real transaction in California, where these disclosures have been required by law for 2+ years. This disclosure is also already required by law in New York state.

The bill does not limit access to capital in any way. It sets no limits on prices or products. It just requires transparent price disclosure.

**OFFER SUMMARY – PAYMENT RIGHTS
SALE DISCLOSURE AGREEMENT**

Funding Provided	\$ 7,500	This is how much funding <u>Bitty Advance 2, LLC</u> will provide. Due to deductions or payments to others, the total funds that will be provided to you directly is \$ 6,806. For more information of what amounts will be deducted, please review the attached document "Itemization of Amount Financed." The amount paid directly to you may change based on required pay-off/pay downs to third-parties, which amounts have not yet been confirmed at the time of this disclosure.
Estimated Annual PercentageRate (APR)	177.74%	APR is the estimated cost of your financing expressed as a yearly rate. APR incorporates the amount and timing of the funding you receive, fees you pay and the payments you make. This calculation assumes your estimated average monthly income through sales of goods and services will be \$ 14,453. Since your actual income may vary from our estimate, your effective APR may also vary. APR is not an interest rate. The cost of this financing is based upon fees charged by <u>Bitty Advance 2, LLC</u> rather than interest that accrues over time.
Finance Charge	\$ 5,139	This is the dollar cost of your financing.
Estimated Total Payment Amount	\$ 11,945	This is the total dollar amount of payments we estimate you will make under the contract.
Estimated Monthly Cost	\$ 2,284	Although this financing does not have monthly payments, this is our calculation of your estimated average monthly cost for comparison purposes.
Estimated Payment	\$ 102 / Day	
Payment Terms	The contact provides for <u>Daily</u> periodic payments. The specified percentage of <u>35%</u> will be delivered to the buyer <u>Daily</u> . The initial estimated <u>Daily</u> debit amount is intended to represent the Specified percentage of your future receipts. You or the buyer may request a reconciliation to the estimated debit amount to more closely reflect your actual future receipts times the specified percentage. Refer to "Changes to the Estimated Debit Amount" on page 3 in the Payments Rights Purchase and Sale Agreement.	
Estimated Term	115 days	This is the estimated term of how long it will take to collect amounts due to the buyer.
Prepayment	If you pay off the financing faster than required, you still must pay all or a portion of the finance charge, up to \$ 5,139 based upon our estimates. If you pay off the financing faster than required, you will not be required to pay additional fees.	

Small Businesses are Being Taken Advantage of

- Small business owners today are often charged **APRs of 50% to 350%** without ever seeing these prices disclosed.¹
- **More than 1 in 4** business owners say they were harmed by predatory lending *within the past year*.²
- Federal Reserve research finds that business owners of color are **2x as affected**.³

That's because laws like the Truth in Lending Act don't cover small business owners, leaving them in a regulatory gap, unprotected.

¹ Accion Opportunity Fund, "Unaffordable and Unsustainable: The New Business Lending On Main Street" July 2016. see also Woodstock Institute, "Analysis of Business Loan Terms." Accessed 2024.

² Goldman Sachs, "New Survey Data Shows Black Small Business Owners Less Likely to Secure Loans," Feb 2024.

³ Federal Reserve Bank of Atlanta, "Report on Minority-Owned Firms," Dec 2019. Page IV, describing "higher-cost and less-transparent credit products."

⁴ Forbes, "Lenders Voluntarily Create a Bill of Rights to Protect Businesses from Lending Abuses," Aug 2016.



“ The problems that we’re starting to see in the small business lending market, to me, are extremely troubling... in some respects, **reminiscent of some of the problems in the subprime mortgage sector** that we saw in the leadup to 2008. ”

**FMR FEDERAL RESERVE VICE CHAIR MICHAEL BARR,
SPEAKING AT THE LAUNCH EVENT OF THIS COALITION⁴**

Please Act To Stop A Return of Subprime Mortgage Mistakes This time targeting small business owners

Forbes

**Why Online Small Business Loans
Are Being Compared To Subprime
Mortgages**

Bloomberg

**The Predatory Lending
Machine Crushing Small
Businesses Across
America**

Bloomberg

**Brokers Get Big Commissions for
Selling Entrepreneurs Costly Loans**

**Wall Street Finds New Subprime With
125% Business Loans**

McClatchy DC

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**Even finance whizzes say it's impossible to
compare online small business loan options**

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**An Easy Financing Source Pushes
Some Small Businesses Into
Bankruptcy**

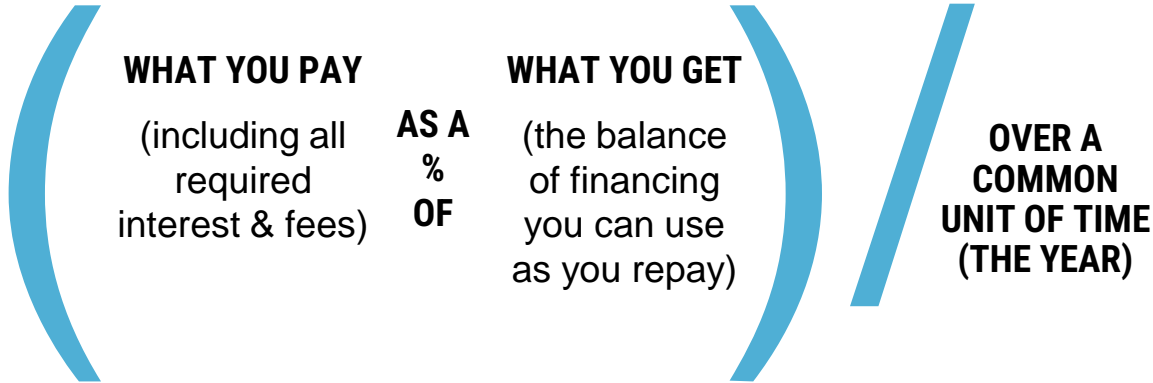
**Bloomberg
Businessweek**

Shady loans are bankrupting America's small businesses



APR is the unit price of financing

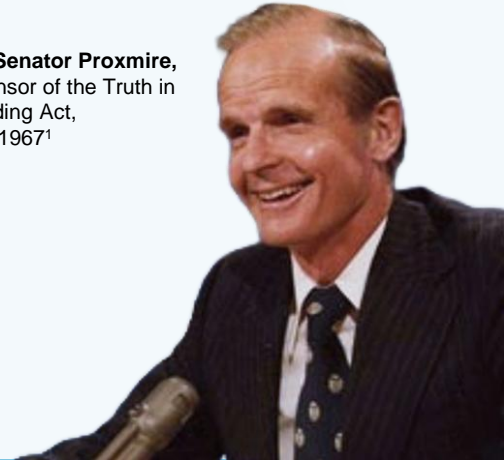
APR combines interest, fees, and other required charges into a single percentage number that financing applicants can use to compare prices. The APR is...



“ Just as the consumer is told the price of gasoline per gallon, so must the buyer of credit be told the ‘unit price.’

Historically in our society that unit price for credit has been the annual rate of interest or finance charge applied to the unpaid balance of the debt. ”

US Senator Proxmire,
Sponsor of the Truth in Lending Act,
Jan 1967¹



¹ Congressional Record, US Senate, 1967, <https://web.archive.org/web/20120415005111/http://www.llsdc.org/attachments/wysiwyg/544/TILA-LH-CR-1967-01-31.pdf>

“MCA” companies argue that it’s too hard to compute the Estimated APRs they charge our small businesses. But...

This is a merchant cash advance contract →



Purchase and Sale of Future Receipts Agreement

Purchase Price: \$12,000.00	Purchased Amount: \$16,560.00	Average Monthly Sales: \$15,763.25
Specified Percentage: 13.1318%	Initial Fees: \$360.00	
Net Amount to Seller: \$11,640.00	(Purchase Price – Initial Fees)	
Initial Weekly Amount: \$517.50	(Average Monthly Sales x Specified Percentage / Average Business Days in a Calendar Month)	

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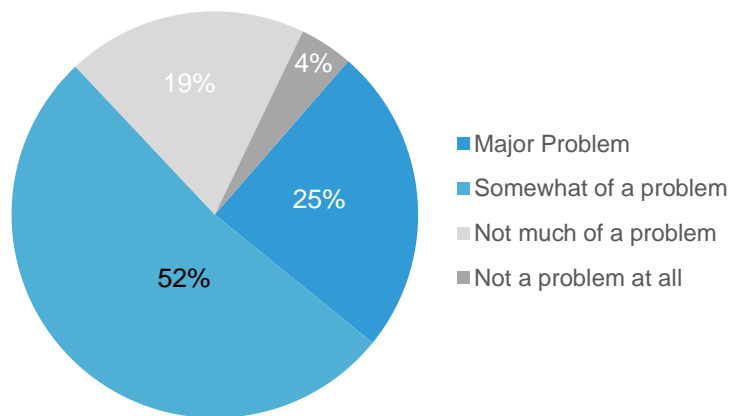
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This is how you compute APR, simply by plugging in these #s to Excel ↓

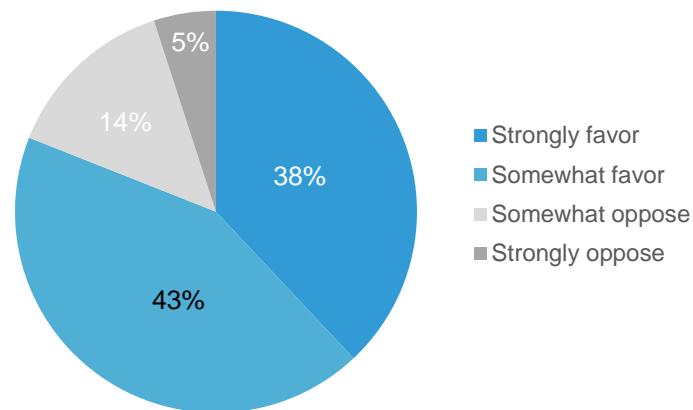
	B	C	D
2	Funding Provided	\$11,640	This is the "Net Amount to Seller"
3	Total Repayment owed	-\$16,560	This is the "Purchased Amount"
4	Expected Payment Amount	-\$517.50	This is the "Initial Weekly Amount." Charged weekly in this case.
5	Estimated Term Length	32	This is cell C3 ÷ cell C4. It's the expected number of weekly payments.
6			
7	Estimated APR	119%	This is computed by plugging in the numbers above to Microsoft Excel's "RATE" formula: =RATE(C5, C4, C2)*52 You plug in cell C5 (the number of payments), cell C4 (the payment amount), and cell C2 (the funding provided), and annualize using the number of weeks in a year (52). Different Excel formulas like "IRR" can also be used to the same result.

Small Business Owners Want Transparency

78% SAY PREDATORY BUSINESS LENDING IS A PROBLEM



80% FAVOR REGULATION TO REQUIRE PRICE TRANSPARENCY



Maryland Companies Now Sell Software to enable lenders to produce the disclosures “quickly and easily”



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Rapid Finance Announces Availability of API Service to Support State-Level Business Lending Disclosure Requirements

December 09, 2022 07:01 AM Eastern Standard Time

DE LINDSA, MD. --(BUSINESS WIRE)--Rapid Finance, a market leader in helping small businesses find sustainable and customized financing solutions through a fast and simple application process, announced the availability of its new standalone Software as a Service (SaaS) Regtech module, SMB Disclosure Service, to enable business lenders and financing companies to quickly and easily produce compliant disclosure statements at a state-by-state level.

Opposition? Federal Reserve research specifically describes the products sold by companies opposing this transparency legislation as “higher-cost and less transparent credit products.”



FEDERAL
RESERVE
BANK
of ATLANTA

Federal Reserve Small Business Credit Survey: Report on Minority-Owned Firms

DECEMBER
2019

Minority-owned firms more frequently applied for potentially higher-cost and less-transparent credit products:

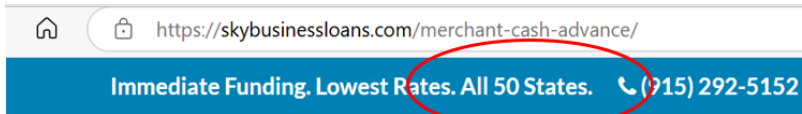
“

- Hispanic-owned firm applicants sought merchant cash advance products more frequently than did White-owned businesses:
- Black-owned business applicants applied for factoring more frequently compared to White-owned firm applicants

”

Yes, Access to Capital Continues in CA and NY

States that have required transparency continue to have access to the “higher-cost and less-transparent credit products” who objected to becoming more transparent



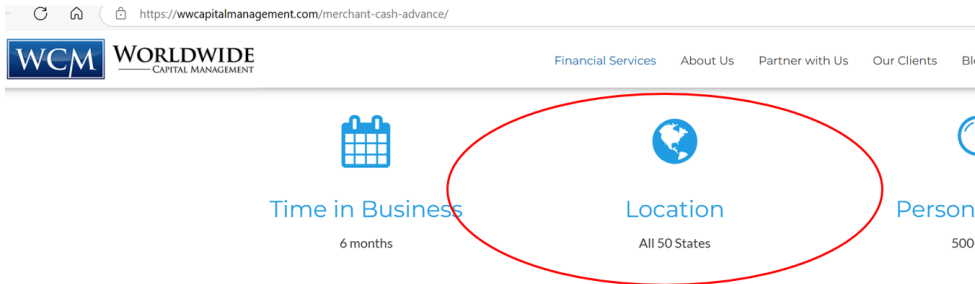
https://skybusinessloans.com/merchant-cash-advance/

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https://wvcapitalmanagement.com/merchant-cash-advance/

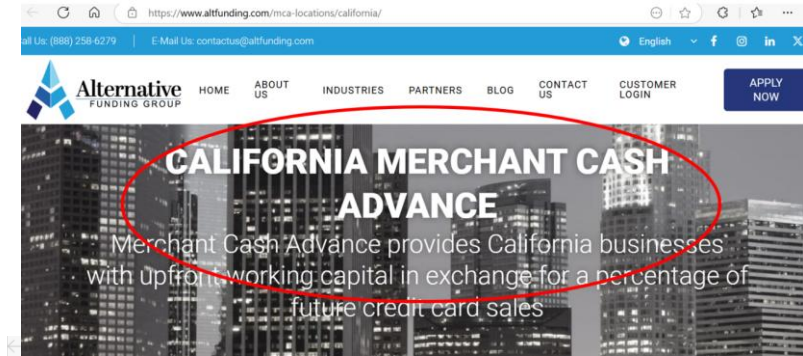
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Time in Business 6 months

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Person 500



https://www.altfunding.com/mca-locations/california/

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CALIFORNIA MERCHANT CASH ADVANCE

Merchant Cash Advance provides California businesses with upfront working capital in exchange for a percentage of future credit card sales



PROGRESSIVE BUSINESS CAPITAL

Merchant Cash Advances for NYC Businesses, Unpacking the Dynamics

Published on October 27, 2023

Without Help, We're Losing Homes and Livelihoods



Bloomberg

Wall Street Finds New Subprime With 125% Business Loans

- PJ and Steve took out a loan to fund their pet rescue, The Little Red Dog.
- The lender quoted a **misleading rate** of 0.099% (actual APR was 465x that) and required their home as collateral.
- The lender's CEO previously led a subprime mortgage company that regulators fined \$214 million for fraud and discrimination against Black and Hispanic homebuyers in the leadup to the 2008 crisis.¹ Then he moved into small business lending, where many regulations just don't apply.
- Now this lender is **suing PJ and Steve for \$1.2 million, just one year after providing them \$458k**. The lender packed on predatory fees, is **foreclosing on their home, and has pushed them into bankruptcy**.²

¹ Bloomberg Businessweek, "Wall Street Finds New Subprime With 125% Business Loans," May 2014

² Loan originated on 9/21/2024, PJ and Steve's home scheduled for foreclosure trustee sale 9/24/2024