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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2023	.	
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The Appropriations Committee on Criminal and Civil Justice  
(Brodeur) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 54 - 171

and insert:

(5) "Commercial financing facility" means a provider's plan for purchasing multiple accounts receivable from the recipient over a period of time pursuant to an agreement that sets forth the terms and conditions governing the use of the facility.

(6) "Commercial financing transaction" means a commercial loan, an accounts receivable purchase transaction, or a



599280

11 commercial open-end credit plan to the extent the transaction is  
12 also a business purpose transaction. As used in this subsection,  
13 the term "business purpose transaction" means a transaction the  
14 proceeds of which are provided to a business or are intended to  
15 be used to carry on a business and not to be used for personal,  
16 family, or household purposes. For purposes of determining  
17 whether a transaction is a business purpose transaction, the  
18 provider may rely on any written statement of intended purpose  
19 signed by the business. The statement may be a separate  
20 statement or may be contained in an application, agreement, or  
21 other document signed by the business or the business owner.

22 (7) "Commercial loan" means a loan to a business, whether  
23 secured or unsecured.

24 (8) "Commercial open-end credit plan" means commercial  
25 financing extended by any provider under a plan in which:

26 (a) The provider reasonably contemplates repeat  
27 transactions.

28 (b) The amount of financing that may be extended to the  
29 business during the term of the plan, up to any limit set by the  
30 provider, is generally made available to the extent that any  
31 outstanding balance is repaid.

32 (9) "Depository institution" means a Florida state-  
33 chartered bank, savings bank, credit union, or trust company, or  
34 a federal savings or thrift association, bank, credit union,  
35 savings bank, or thrift.

36 (10) "Provider" means a person who consummates more than  
37 five commercial financing transactions with a business located  
38 in this state in any calendar year. The term also includes a  
39 person who enters into a written agreement with a depository



40 institution to arrange a commercial financing transaction  
41 between the depository institution and a business via an online  
42 lending platform administered by the person. The fact that a  
43 provider extends a specific offer for a commercial financing  
44 transaction on behalf of a depository institution may not be  
45 construed to mean that the provider engaged in lending or  
46 financing or originated that loan or financing.

47 559.9612 Scope of this part.—This part applies to any  
48 commercial financing transaction consummated on or after January  
49 1, 2024. This part does not apply to:

50 (1) A provider that is:

51 (a) A federally insured depository institution or an  
52 affiliate or holding company of such institution; or

53 (b) A subsidiary or service corporation that is owned and  
54 controlled by a federally insured depository institution or  
55 under common ownership with such institution.

56 (2) A provider that is a lender regulated under the Farm  
57 Credit Act of 1971, 12 U.S.C. ss. 2001 et seq.

58 (3) A commercial financing transaction that is:

59 (a) Secured by real property;

60 (b) A lease; or

61 (c) A purchase money obligation that is incurred as all or  
62 part of the price of the collateral or for value given to enable  
63 the business to acquire rights in or the use of the collateral  
64 if the value is in fact so used.

65 (4) A commercial financing transaction in which the  
66 recipient is a motor vehicle dealer or an affiliate of such a  
67 dealer, or a vehicle rental company or an affiliate of such a  
68 company, pursuant to a commercial loan or commercial open-end



599280

69 credit plan of at least \$50,000 or a commercial financing  
70 transaction offered by a person in connection with the sale or  
71 lease of products or services that such person manufactures,  
72 licenses, or distributes, or whose parent company or any of its  
73 directly or indirectly owned and controlled subsidiaries  
74 manufactures, licenses, or distributes.

75 (5) A provider that is licensed as a money transmitter  
76 under chapter 560 or licensed as a money transmitter by any  
77 other state, district, territory, or commonwealth of the United  
78 States.

79 (6) A provider that consummates no more than five  
80 commercial financing transactions in this state in a 12-month  
81 period.

82 (7) A commercial financing transaction of more than  
83 \$500,000.

84 559.9613 Disclosures.—

85 (1) A provider that consummates a commercial financing  
86 transaction shall provide a written disclosure of the terms of  
87 the commercial financing transaction as required by this part.  
88 The disclosure must be provided at or before consummation of the  
89 transaction. Only one disclosure must be provided for each  
90 commercial financing transaction, and a disclosure is not  
91 required as result of a modification, forbearance, or change to  
92 a consummated commercial financing transaction.

93 (2) A provider shall provide a written disclosure of the  
94 following information in connection with each commercial  
95 financing transaction:

96 (a) The total amount of funds provided to the business  
97 under the terms of the agreement.



599280

98           (b) The total amount of funds disbursed to the business if  
99 less than the amount specified in paragraph (a) as a result of  
100 any fees deducted or withheld at disbursement, any amount paid  
101 to the provider to satisfy a prior balance, and any amount paid  
102 to a third party on behalf of the business.

103           (c) The total amount to be paid to the provider under the  
104 terms of the agreement.

105           (d) The total dollar cost under the terms of the agreement,  
106 calculated by finding the difference between the amount  
107 specified in paragraph (a) and the amount specified in paragraph  
108 (c).

109           (e)1. The manner, frequency, and amount of each payment; or  
110 2. If the amount of the payments may vary, the provider  
111 must instead disclose the manner and frequency of the payments,  
112 the estimated amount of the initial payment, a description of  
113 the methodology for calculating any variable payment, and the  
114 circumstances under which payments may vary.

115           (f) Whether there are any costs or discounts associated  
116 with prepayment, including a reference to the provision in the  
117 agreement which creates the contractual rights of the parties  
118 related to prepayment.

119           (3) A provider that consummates a commercial financing  
120 facility may provide disclosures required by subsection (2)  
121 which are based on an example of a transaction that could occur  
122 under the agreement. The example must be based on an account  
123 receivable total face amount owed of \$10,000. Only one  
124 disclosure is required for each commercial financing facility,  
125 and a disclosure is not required as result of a modification,  
126 forbearance, or change to the facility. A new disclosure is not



599280

127 required each time accounts receivable are purchased under the  
128 facility.

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130 ===== T I T L E A M E N D M E N T =====

131 And the title is amended as follows:

132       Between lines 10 and 11

133 insert:

134       authorizing providers to provide specified required  
135       disclosures when consummating a commercial financing  
136       facility based on an example of a transaction;  
137       specifying that disclosures are not required under  
138       certain circumstances;