

HB 2063 -- COMMERCIAL FINANCING TRANSACTION DISCLOSURE

SPONSOR: Owen

COMMITTEE ACTION: Voted "Do Pass by Consent" by the Standing Committee on Financial Institutions by a vote of 8 to 0. Voted "Do Pass- Consent" by the Standing Committee on Consent and House Procedure by a vote of 9 to 0.

This bill creates the "Commercial Financing Disclosure Law".

The bill defines a "provider" as a person who consummates more than five commercial financing products to a business located in Missouri in a calendar year. Under the provisions of the bill, the provider is required to make certain disclosures to the business with regard to the product. The disclosures are required at or before the consummation of the transaction. Specifically, the provider is required to disclose the following:

- (1) The total amount of funds provided to the business under the terms of the commercial financing product;
- (2) The total amount of funds disbursed to the business under the terms of the commercial financing product, if less than the total amount of funds provided, as a result of any fees deducted or withheld at disbursement and any amount paid to a third party on behalf of the business;
- (3) The total amount to be paid to the provider pursuant to the commercial financing product agreement;
- (4) The total dollar cost of the commercial financing product under the terms of the agreement, obtained by subtracting the total amount of funds provided from the total of payments;
- (5) The manner, frequency and amount of each payment; and
- (6) A statement of whether there are any costs or discounts associated with prepayment of the commercial financing product.

This bill contains various exemptions and includes provisions requiring all persons engaged in business as a commercial financing broker within the state to file a registration and post a surety bond in the amount of \$10,000 with the Division of Finance within the Department of Commerce and Insurance. Brokers must renew their registration on or before January 31st of each year.

Violations of this bill are punishable by a fine of \$500 per incident, not to exceed \$20,000 for all aggregated violations. Any

person who violates any provision of this bill after receiving written notice of a prior violation from the Attorney General shall be subject to a fine of \$1,000 per incident, not to exceed \$50,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this bill.

Violation of any provision of this bill does not affect the enforceability or validity of the underlying agreement.

This bill does not create a private cause of action against any person or entity based upon noncompliance with this bill.

The Attorney General is given authority to enforce the provisions of this bill.

The provisions requiring a provider to file a disclosure regarding a commercial financing transaction and a registration will be effective six months after the Division finalizes promulgating rules or February 28, 2025, if the Division does not intend to promulgate rules.

This bill is similar to SB 187 (2023).

**PROPONENTS:** Supporters say that this bill addresses a niche in the market for businesses that do not quite fit traditional models, such as seasonal businesses that have a fluctuating cash flow. It allows a borrower to match payment to its revenue.

Testifying in person for the bill were Representative Owen; and the Revenue Based Finance Coalition.

**OPPONENTS:** There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.