Sponsored by:
Senator  TROY SINGLETON
District 7 (Burlington)

SYNOPSIS
Requires certain disclosures to recipients of small business loans.

CURRENT VERSION OF TEXT
As reported by the Senate Commerce Committee on October 15, 2018, with amendments.
S2262 [1R] SINGLETON

AN ACT concerning small business loans and supplementing P.L.1964, c.162 (C.17:9A-59.25 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. Notwithstanding any other law to the contrary, any [an] entity that provides a small business loan to a small business concern located in the State, in an amount of $100,000 or less, shall provide all of the following disclosures to the small business concern:

   (1) [the annual percentage rate, expressed as a nominal yearly rate, inclusive of any fees and finance charges.

   (2) [the interest rate, expressed as a nominal yearly rate, exclusive of any fees or charges.

   (3) [the finance charge, which shall mean the amount of any and all costs of small business credit, including interest, transaction fees, origination fees, and any third party fees.

   (4) (a) for a term loan, the amount financed, which shall mean the total loan amount less any prepaid finance charges for term credit; and

   (b) for a revolving credit loan, the borrowing limits, which shall mean the maximum credit limit available to the small business concern.

   (5) [the payment schedule, which shall include the number, amounts, and timing of payments scheduled to repay the obligation, which amounts shall include principal, interest, and any other finance charges incurred after closing.

   (6) [the minimum payment required to be paid toward the outstanding amount to meet the terms and conditions of the small business loan, and an estimate of the time to pay off the outstanding amount, along with the cost of any interest incurred by making a minimum payment.

   (7) [any third party agreements entered into between the [an] entity that provides the small business loan and any broker or other third party involved in the loan, any fees paid pursuant to their involvement, and a description of their relationships and any conflicts of interests.

   b. The disclosures required pursuant to subsection a. of this subsection shall be provided at the time that the small business loan is offered to the small business concern and prior to the small business concern’s acceptance of the loan.

   c. In addition to the disclosures required to be provided to the small business concern pursuant to subsection a. of this section, [a bank or other] an entity providing a small business loan shall, as

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:

1Senate SCM committee amendments adopted October 15, 2018.
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applicable and appropriate under the terms of the small business loan, notify a small business concern at least 45 days before the effective date of any increase in the annual percentage rate of the loan and any other change that significantly affects the responsibilities or obligations of the small business concern under the loan.

d. [A bank or other] An entity that violates any provision of this section shall be subject to the penalties pursuant to section 13 of P.L.1964, c.162 (C.17:9A-59.37).

e. For the purposes of this section:

(1) “Small business loan” shall include a merchant cash advance, and a working capital loan provided by a payment processor;

(2) “Merchant cash advance” means a financing option that allows an entity to sell a portion of its future sales in exchange for an immediate payment;

(3) “Payment processor” means any person who acts as a payment processor to facilitate the purchase of, or payment of a bill for, a good or service through a clearance and settlement system by agreement with a creditor or seller; and

(4) “Working capital loan” means a loan used to finance daily business operations.

f. This section shall not apply to:

(1) an insured depository institution, which is defined to mean any bank or savings association the deposits of which are insured by the FDIC pursuant to 12 U.S.C. 1813(c)(2); or

(2) a commercial equipment lease or loan financing agreement entered into pursuant to chapter 2A or chapter 9 of Title 12A of the New Jersey Statutes. ²

2. This act shall take effect on the 90th day next following enactment.