

[First Reprint]
SENATE, No. 2262

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 8, 2018

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.



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

3

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

6

7 1. a. Notwithstanding any other law to the contrary, any
8 ¹**["bank or other"]**¹ entity that provides a small business loan to a
9 small business concern located in the State, in an amount of
10 \$100,000 or less, shall provide all of the following disclosures to
11 the small business concern:

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

14 (2) ¹**"]**¹ the interest rate, expressed as a nominal yearly rate,
15 exclusive of any fees or charges.

16 ¹**["(3)"]** (2)¹ the finance charge, which shall mean the amount of
17 any and all costs of small business credit, including interest,
18 transaction fees, origination fees, and any third party fees.

19 ¹**["(4)"]** (3)¹ (a) for a term loan, the amount financed, which shall
20 mean the total loan amount less any prepaid finance charges for
21 term credit; and

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

25 ¹**["(5)"]** (4)¹ the payment schedule, which shall include the
26 number, amounts, and timing of payments scheduled to repay the
27 obligation, which amounts shall include principal, interest, and any
28 other finance charges incurred after closing.

29 ¹**["(6)"]** (5)¹ the minimum payment required to be paid toward the
30 outstanding amount to meet the terms and conditions of the small
31 business loan, and an estimate of the time to pay off the outstanding
32 amount, along with the cost of any interest incurred by making a
33 minimum payment.

34 ¹**["(7)"]** (6)¹ any third party agreements entered into between the
35 ¹**["bank or"]**¹ entity that provides the small business loan and any
36 broker or other third party involved in the loan, any fees paid
37 pursuant to their involvement, and a description of their
38 relationships and any conflicts of interests.

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

43 c. In addition to the disclosures required to be provided to the
44 small business concern pursuant to subsection a. of this section, ¹**["a**
45 **bank or other"]** an¹ 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.

1 applicable and appropriate under the terms of the small business
2 loan, notify a small business concern at least 45 days before the
3 effective date of any increase in the annual percentage rate of the
4 loan and any other change that significantly affects the
5 responsibilities or obligations of the small business concern under
6 the loan.

7 d. ¹~~["A bank or other"]~~ An¹ entity that violates any provision of
8 this section shall be subject to the penalties pursuant to section 13
9 of P.L.1964, c.162 (C.17:9A-59.37).

10 ¹e. For the purposes of this section:

11 (1) "Small business loan" shall include a merchant cash
12 advance, and a working capital loan provided by a payment
13 processor;

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

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

21 (4) "Working capital loan" means a loan used to finance daily
22 business operations.

23 f. This section shall not apply to:

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

27 (2) a commercial equipment lease or loan financing agreement
28 entered into pursuant to chapter 2A or chapter 9 of Title 12A of the
29 New Jersey Statutes.¹

30

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