

**LEASING NEWS EXCLUSIVE: INTERVIEW WITH STATE SENATOR
STEVEN GLAZER, AUTHOR OF SB 1235**

MR. McCURNIN: Senator Glazer, congratulations on the passage of SB 1235, how do you see this bill benefiting small businesses in California?

SENATOR GLAZER: This bill will give small business owners the information they need to compare the costs and consequences of the different kinds of financing available to them and their businesses. This will help them sustain and grow their companies while avoiding problems caused by taking on more debt than they can afford.

MR. McCURNIN: California will become the first state in the United States to require lenders to disclose interest rates for all commercial loans. How do you feel about being on the cutting edge of this lending issue?

SENATOR GLAZER: California is so big and diverse that we often lead the nation in setting policy on emerging issues, and I think it's appropriate that we do so in this case. Our bill closely follows the recommendations of the Conference of State Bank Supervisor's FinTech Industry advisory panel, so we hope that it will become a model for the nation.

MR. McCURNIN: What was the genesis behind SB 1235 and how did you come up with the idea that California should require commercial lenders to provide APR disclosure?

SENATOR GLAZER: As a senator I have been a strong proponent of policies to promote economic opportunity and mobility. When I learned a year ago of the growing consensus that small business owners were often bewildered by the array of innovative financing available, especially on the Internet, I began to explore the possibility of providing the same kind of Truth in Lending disclosures for small business borrowers that have been commonplace in consumer lending for half a century. I saw the research that had been done by the U.S. Federal Reserve and others, and my staff and I studied several model disclosures developed by different trade associations in the commercial lending industry. Several of these included APR. I believe that without an annualized rate, a disclosure would not give

borrowers the information they need to compare financing of different amounts, terms and charges.

MR. McCURNIN: Here at Leasing News, we've heard nothing but complaints and criticism from lenders about SB 1235. What groups supported SB 1235 and why?

SENATOR GLAZER: The final version of the bill had support from a massive coalition of lenders, community groups and small business advocates. These included the Marketplace Lending Assn., the Responsible Business Lending Coalition, The Opportunity Fund, Lending Club, and the Economic Development and Financing Corporation. Every major small business advocate in California also supported the bill, including the National Federation of Independent Business, the California Small Business Assn., Small Business California, the Small Business Finance Institute, and Small Business Majority. Finally, we also had support from an array of economic opportunity groups, including the California Assn. for Micro Enterprise Development, the California Reinvestment Coalition, and the Greenlining Institute.

One other note: we worked very closely with the Equipment Leasing and Finance Assn. on the part of the bill that deals with lease financing. In the end they were satisfied that the language was fair and workable for the leasing industry, and they did not oppose the bill.

I believe it was the support of more than 60 organizations from across the policy spectrum that helped us build the bipartisan coalition in the Legislature to pass the bill by such wide margins, 72-3 in the Assembly and 28-6 in the Senate. That's very rare to see in this day and age of partisan polarization.

MR. McCURNIN : Many sectors of the lending industry have not typically provided interest rate disclosures to commercial borrowers. How do you answer the claims of lenders that the APR should be withheld from California commercial borrowers?

SENATOR GLAZER: I think that providing an annualized rate to borrowers is crucial to help them compare one offer to another. If you tell me that one offer will provide \$15,000 at a cost of \$3,000 and a term of six months and another will

be for \$17,000 and cost me \$3,500 for four months, it is almost impossible to determine which of those is a better offer without knowing an annualized rate. The total cost of the capital – a raw dollar amount -- is just not sufficient when the other variables are different. Given the variety of financing types available in the commercial market, providing an annualized rate might be more important for small business borrowers than it is in consumer lending.

MR. McCURNIN: Many lenders fear that if interim rent and residual payments are to be factored into the disclosure, that disclosure of the APR will become very complicated. How to you answer the fears of those lenders that APR disclosure will be too complicated?

SENATOR GLAZER: It's our intention that the calculation include only those costs which are unavoidable by the borrower. And in cases where the costs could vary over the course of the financing, the disclosure will be based on the best estimates available at the time an offer is made and a deal is closed. The legislation directs the Department of Business Oversight to provide guidance to providers of financing on exactly what to disclose and how to calculate it, and in the case of an estimate, what level of accuracy will be required. No lender will have to disclose terms unless the department can tell them exactly how they need to do it."

MR. McCURNIN: Some lenders claim that APR disclosure will give an unfair advantage to those lenders which have a lower cost of funds. Do you believe that this bill will increase or decrease competition between commercial lenders?

SENATOR GLAZER: We think the bill will provide for fairer and more robust competition among lenders, because that is almost always the case when customers have more information at their disposal. Good, healthy markets rely on good information, and this bill will provide it.

MR. McCURNIN: Do you believe that APR disclosure will ultimately lower interest rates for California commercial borrowers?

SENATOR GLAZER: We believe that a more open, honest competition will lead to more access to capital and lower costs for borrowers.

MR. McCURNIN: When you drafted SB 1235, did you do so with the input of the California Department of Oversight?

SENATOR GLAZER: The bill was drafted by the Senator's office in consultation with stakeholders, including lenders, borrowers, small business advocates and others. The Department of Business Oversight provided technical advice on the bill in order to shape it into a measure that the department could implement and enforce if the governor ultimately decided to sign the legislation.

MR. McCURNIN: Since the California Department of Business Oversight will be responsible for enforcement of the disclosure requirements, do you envision any problems with the enforcement of these disclosure requirements by the DOB?

SENATOR GLAZER: The department assured us that the disclosure requirements in the bill were practical and that they had the expertise and the resources to enforce them.

MR. McCURNIN: Do you believe that other states will follow California's lead and enact forms of interest rate disclosure for commercial loans?

SENATOR GLAZER: We closely followed the recommendation of the Conference of State Bank Supervisors' FinTech advisory panel, so we hope that other states will find our law to be a useful model."

MR. McCURNIN: Under the new law, the disclosures must be made when the specific commercial financing offer is extended, but the signature on the disclosure is only required prior to "consummating" the transaction. How will the DBO be able to ascertain if the disclosure was made when required if it is made at the same time as the signature is obtained?

SENATOR GLAZER: That will ultimately be up to the department, but if borrowers complain that providers of financing are not providing disclosures at the

time an offer is made, the department has the means to investigate if that is the case, and take action against any lenders or providers who are violating the law.

MR. McCURNIN: The statute seems to imply that the provider must make an APR disclosure when the offer of financing is made. Often that might occur when the loan documents are sent for signature. Do you believe that the APR disclosure could be made and embedded in the loan documents, which is similar to Federal Regulation Z law? Or, must there be an extra step of disclosure before consummation?

SENATOR GLAZER: The bill requires that the disclosure be made at the same time as an offer of financing, and it is our intent that this be whenever the financial provider puts forth a specific term sheet with amounts financed and costs to the borrower. That is typically done before final papers are drawn up, because otherwise the customer would not know what they are getting. One purpose of the bill is to allow borrowers to comparison shop using these disclosures. So the first disclosure has to be provided with the offer, and the signed disclosure obtained if and when that customer opts to accept the offer.

MR. McCURNIN: Many of our leasing lenders prepare documents as a broker for a bank in the name of the bank. If the lender-broker is acting as agent for a bank which is exempt, will the broker required to make the disclosures at the time of the offering?

SENATOR GLAZER: The bill requires providers of financing who are acting in partnership with banks to provide the disclosures to the customer. The person or firm providing the offer to the borrower is covered, even if the funds ultimately come from an entity that is exempt.

What are the takeaways from this interview and SB 1235?

- **First**, Senator Glazer Represents California First. I was impressed how he feels that he represents all of California, including ordinary California borrowers, not just the business interests. He believes that this will ultimately lower interest rates for California borrowers. I think he is right.

- **Second**, He Believes That This Will Give California Borrowers More Informed Choices. Under this bill, California borrowers will know exactly what the annual interest rate of the loan for which they are applying. I believe that a borrower that is so informed will be less likely to default, as there will be no surprises.
- **Third**, The Bill Creates a Policy of Disclosure But It Will Be Up To the Department of Business Oversight to Enforce Violations. Like all statutes, the wording will be subject to interpretation by regulatory agencies and the courts. This is not a bad thing.
- **Fourth**, The Bill Levels the Playing Field. Reg Z Disclosure is already the law in consumer loans and many bank loans. The idea that this bill will be the end of the free world as we know it, is ridiculous. Rate disclosure will increase competition and certainly has not harmed consumer lenders nor bank lenders.
- **Fifth**, California is a Legal Trend Setter. We all know that California has been on the forefront of many laws we now take for granted, in environmental protection, healthcare regulation, individual privacy, and labor protection. Senator Glazer believes that other states will follow this lead.

The bottom line to this interview is that I left being very impressed with Senator Glazer's commitment to California and the protection of its citizens. Given the regulatory vacuum in Washington, DC, California simply had to step up and level the playing field. I see some of the smaller brokers which draft documents to cheat borrowers being forced out of the market—this is a good thing. I also see California borrowers benefitting from increased competition and informed choices.

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