

CA Regulator Proposes Regulations To Implement New Law Requiring Consumer-Like Disclosures For Commercial Financing

Article By:

Michael R. Guerrero

The California Department of Business Oversight (DBO) has issued [proposed regulations](#) to implement [SB 1235](#), the bill signed into law in September 2018 that requires consumer-like disclosures to be made for certain commercial financing products, including small business loans, merchant cash advances, and factoring. The law contains exemptions and carve-outs for, among other things, depository institutions, financings of more than \$500,000, closed-end loans with a principal amount of less than \$5,000, and transactions secured by real property.

Companies providing the types of financing covered by the law are not required to comply with the new disclosure requirements until the DBO's final regulations become effective. Comments on the proposed regulations are due by September 9, 2019.

In addition to general formatting and content requirements, the proposal includes detailed provisions that address:

- Closed-end transaction formatting and content requirements
- Commercial open-end credit plan disclosure formatting
- Factoring disclosure formatting
- Sales-based financing disclosure formatting
- General asset-based lending transaction disclosure formatting
- Lease financing formatting and content requirements
- Signature requirements
- Rules for determining if the amount of commercial financing is equal to or less than \$500,000
- Rules for disclosures for closed-end and open-end credit plans with payment options

- Rules for providing estimates
- Rules for calculating APR
- Components of finance charge
- Examples of asset-based lending and factoring transactions

The proposed regulations are accompanied by model disclosures for six types of financing: (1) asset-based lending, (2) closed-end transactions, (3) general factoring, (4) lease financing, (5) sales-based financing, and (6) open-end credit plan.

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