

# ASSEMBLY, No. 4561

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

**Sponsored by:**  
**Assemblyman CLINTON CALABRESE**  
**District 36 (Bergen and Passaic)**

### **SYNOPSIS**

Requires certain disclosures to recipients of small business loans.

### **CURRENT VERSION OF TEXT**

As introduced.



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2

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 bank  
8 or other entity that provides a small business loan to a small  
9 business concern located in the State, in an amount of \$100,000 or  
10 less, shall provide all of the following disclosures to the small  
11 business concern:

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

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

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

19 (4) (a) for a term loan, the amount financed, which shall mean  
20 the total loan amount less any prepaid finance charges for term  
21 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 (5) the payment schedule, which shall include the number,  
26 amounts, and timing of payments scheduled to repay the obligation,  
27 which amounts shall include principal, interest, and any other  
28 finance charges incurred after closing.

29 (6) 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 (7) any third party agreements entered into between the bank or  
35 entity that provides the small business loan and any broker or other  
36 third party involved in the loan, any fees paid pursuant to their  
37 involvement, and a description of their relationships and any  
38 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, a  
45 bank or other entity providing a small business loan shall, as  
46 applicable and appropriate under the terms of the small business  
47 loan, notify a small business concern at least 45 days before the  
48 effective date of any increase in the annual percentage rate of the

1 loan and any other change that significantly affects the  
2 responsibilities or obligations of the small business concern under  
3 the loan.

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

7  
8 2. This act shall take effect on the 90<sup>th</sup> day next following  
9 enactment.

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STATEMENT

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14 This bill supplements the “Small Business Loan Act” by  
15 applying certain disclosure provisions of the federal “Truth in  
16 Lending Act” (TILA) to certain loans made to small businesses in  
17 the State.

18 Although banks have traditionally provided the majority of small  
19 business loans, other non-bank lenders, including online  
20 marketplace lenders, have moved into the market for small business  
21 loans. While TILA requires disclosures to individual consumers  
22 who take out loans, this bill expands protections to small businesses  
23 as the lending industry goes through this transformation, by placing  
24 TILA disclosure requirements on any bank or other entity providing  
25 a small business loan in an amount of \$100,000 or less to a business  
26 located in the State.

27 Specifically, the bill requires, notwithstanding any other law to  
28 the contrary, any bank or other entity that provides a small business  
29 loan to a small business concern located in the State, in an amount  
30 of \$100,000 or less, to provide all of the following disclosures  
31 about the loan to the small business concern:

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

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

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

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

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

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

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

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

11       The bill also requires these disclosures to be provided at the time  
12 that the small business loan is offered to the small business concern  
13 and prior to the small business concern's acceptance of the loan.

14       In addition, a bank or entity providing a small business loan  
15 shall, as applicable and appropriate under the terms of the small  
16 business loan, notify a small business concern at least 45 days  
17 before the effective date of any increase in the annual percentage  
18 rate of the loan and any other change that significantly affects the  
19 responsibilities or obligations of the small business concern under  
20 the loan.

21       Finally, the bill provides that any bank or other entity that  
22 violates any provision of the bill shall be subject to the penalties set  
23 forth in the "Small Business Loan Act."