
**SENATE COMMITTEE ON
BANKING AND FINANCIAL INSTITUTIONS**
Senator Timothy Grayson, Chair
2025 - 2026 Regular

Bill No: AB 2116 **Hearing Date:** June 17, 2026
Author: Schiavo
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Urgency: No **Fiscal:** Yes
Consultant: Michael Burdick

Subject: Commercial financing

SUMMARY

This bill expands the scope of the California Financing Law to cover specified commercial financing transactions offered to small businesses and establishes requirements and prohibitions on commercial financing providers and brokers engaged in such transactions.

EXISTING LAW

- 1) Pursuant to the California Financing Law (CFL):
 - a) Requires the licensure and oversight by the Department of Financial Protection and Innovation (DFPI) of businesses that provide commercial loans in the state. (Division 9 of the Financial Code, Section 22000 et seq.)
 - b) Defines “commercial loan” as a loan of a principal amount of \$5,000 or more, or any loan under an open-end credit program, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes. (Financial Code Section 22502)
- 2) Pursuant to Division 9.5 of the Financial Code, commencing with Section 22800:
 - a) Requires specified disclosures related to commercial financing, which includes, among other things, a requirement to disclose the annualized rate for a commercial financing offer presented to a recipient. (Financial Code Section 22802 and 22803)
 - b) Defines “commercial financing” to mean an accounts receivable purchase transaction, including factoring, asset-based lending transaction, commercial loan, commercial open-end credit plan, or lease financing transaction intended by the recipient for use primarily for other than personal, family, or household purposes. (Financial Code Section 22800(d))
 - c) Defines “provider” as a person who extends a specific offer of commercial financing to a recipient. Clarifies that “provider” also includes a nondepository institution, which enters into a written agreement with a depository institution to arrange for the extension of commercial financing by the depository institution to a recipient via an online lending platform administered by the nondepository institution. (Financial Code Section 22800(m))

- d) Defines “recipient” as a person who is presented a specific commercial financing offer by a provider that is equal to or less than \$500,000. (Financial Code Section 22800(n))
 - e) Exempts the following persons or categories of transactions from the division:
 - i) A depository institution.
 - ii) A commercial financing transaction secured by real property.
 - iii) Any person who makes no more than one commercial financing transaction in California in a 12-month period or any person who makes five or fewer commercial financing transactions in California in a 12-month period that are incidental to the business of the person relying upon the exemption. (Financial Code Section 22801)
- 3) Pursuant to the California Consumer Financial Protection Law (CCFPL) and its implementing regulations:
- a) Authorizes DFPI to promulgate regulations that define unfair, deceptive, and abusive acts and practices in connection with the offering or provision of commercial financing to small business recipients, nonprofits, and family farms. (Financial Code Section 90009(e))
 - b) Pursuant to (a), provides rules governing commercial financing products and services, including the following:
 - i) Defines “covered entity” to mean a small business, nonprofit, or family farm whose activities are principally directed or managed from California. (Title 10 California Code of Regulations, Section 1060(d))
 - ii) Defines “covered provider” to mean any person engaged in the business of offering or providing commercial financing or another financial product or service to a covered entity, unless that person is exempt from the CCFPL pursuant to Financial Code Section 90002. (Title 10 California Code of Regulations, Section 1060(e))
 - iii) Defines “small business” to mean a business entity organized for profit with annual gross receipts of no more than \$16,000,000 or the annual gross receipt level as biennially adjusted by the Department of General Services in accordance with Government Code section 14837, subdivision (d)(3), whichever is greater. (Title 10 California Code of Regulations, Section 1060 (i))
 - iv) Provides that is unlawful for a covered provider to engage or have engaged in any unfair, deceptive, or abusive act or practice in connection with the offering or provision of commercial financing or another financial product or service to a covered entity. (Title 10 California Code of Regulations, Section 1061(a))

THIS BILL

The provisions of this bill are operative on January 1, 2028.

- 1) Prohibits a person from engaging in the business of a commercial financing provider or commercial financing broker without obtaining a license from DFPI pursuant to the California Financing Law (CFL).
- 2) Subjects commercial financing providers and commercial financing brokers to the administrative and enforcement authorities provided by the CFL to DFPI.
- 3) Defines the following terms, among others:
 - a) “Commercial financing” means an accounts receivable purchase transaction, including factoring, asset-based lending transaction, commercial loan, commercial open-end credit plan, or lease financing, intended by the recipient for use primarily for a purpose other than a personal, family, or household purpose.
 - b) “Commercial financing broker” means a person who is engaged in the business of performing any of the following acts in connection with commercial financing made by a commercial financing provider:
 - i) Transmitting sensitive data about a prospective recipient to a commercial financing provider with the expectation of compensation in connection with making a referral.
 - ii) Making a referral to a commercial financing provider under an agreement with the commercial financing provider that a prospective recipient referred by the person to the commercial financing provider meets certain criteria involving sensitive data.
 - iii) Participating in a commercial financing negotiation between a commercial financing provider and prospective recipient.
 - iv) Counseling, advising, or making recommendations to a prospective recipient about a commercial financing transaction based on the prospective recipient’s sensitive data.
 - v) Participating in the preparation of commercial financing documents, including commercial financing applications, other than providing a prospective recipient blank copies of commercial financing documents. Provides that transmitting information that is not sensitive data to a commercial financing provider at the request of a prospective recipient shall not, by itself, constitute participation in the preparation of commercial financing documents.
 - vi) Communicating to a prospective recipient a commercial financing provider’s commercial financing approval decisions.
 - vii) Charging a fee to a prospective recipient for services related to a prospective recipient’s application for a commercial financing transaction from a commercial financing provider.
 - c) “Commercial financing provider” means a person who extends a specific offer of commercial financing to a recipient, including, but not limited to, a nondepository

institution that enters into a written agreement with a depository institution to arrange for the extension of commercial financing by the depository institution to a recipient via an online lending platform administered by the nondepository institution.

- d) “Recipient” means a small business or small business owner who is presented a specific commercial financing offer by a commercial financing provider that is equal to or less than \$500,000.
 - e) “Referral” means the introduction of a prospective recipient to a commercial financing provider, or the delivery of a prospective recipient’s contact information to a commercial financing provider, for the purpose of making an introduction.
 - f) “Small business” means a business entity organized for profit with annual gross receipts of the greater of no more than \$16 million or the level as biennially adjusted by the Department of General Services, as specified. Provides specified exemptions to the proposed regulations of commercial financing transactions, including but not limited to, transactions secured by real property.
- 4) Provides that a commercial financing agreement entered into on or after January 1, 2028, is not enforceable if the commercial financing provider is not licensed under the CFL.
 - 5) Prohibits a commercial financing provider or broker from the following acts:
 - a) Taking a confession of judgment or any power of attorney at any time before a default by a recipient under the terms of a commercial financing transaction agreement or contract.
 - b) Including a provision in a commercial financing transaction agreement or contract that authorizes a commercial financing provider or broker to attach or garnish any of a recipient’s money held in an account in a depository institution.
 - c) Including a provision in a contract or agreement with a recipient that limits or restricts the recipient from disclosing information that the recipient gains from the recipient’s business activities with the registrant, including, but not limited to, terms or conditions of a product or service offered by the registrant.
 - d) Provides that a commercial financing transaction found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of the CFL.
 - 6) Requires a commercial financing broker to clearly and conspicuously display on their website the average and maximum annual percentage rates for the commercial financing transactions facilitated by the broker in the most recent calendar year.
 - 7) Requires a commercial financing provider to file annually a report with DFPI with information related to the type, size, and price of commercial financing transactions provided to recipients in the preceding calendar year.
 - 8) Exempts specified transactions or persons from the proposed licensing framework.
 - 9) Codifies the existing regulation related to unfair, deceptive, and abusive acts and practices into the CFL.

- 10) Makes conforming changes to various general administrative and enforcement provisions within the CFL to reflect the addition of commercial financing transactions to the scope of the licensing law.

COMMENTS

1) *Purpose*

According to the author:

Small businesses across California are struggling to access affordable, responsible capital—particularly during the ongoing post-COVID recovery. In the absence of meaningful oversight, many small business owners are aggressively marketed high-cost, non-loan financing products that can destabilize otherwise viable businesses.

While traditional small business loans are subject to regulatory oversight, a growing share of small business financing occurs through alternative, non-loan products such as merchant cash advances (MCAs) and factoring arrangements. MCAs typically provide an upfront lump sum in exchange for a fixed percentage of a business's future credit card sales or daily bank deposits. Federal Reserve research has identified these products as “potentially higher-cost and less-transparent credit products” because they often carry repayment structures that are difficult to understand and can rapidly drain a business's cash flow, pushing owners into cycles of repeat borrowing.

Without oversight, MCAs and similar practices threaten small business survival, household financial stability, and community economic health.

This measure establishes a licensing requirement and accompanying oversight that will give small businesses the assurances that they can find reputable lenders that follow a set of common financing practices.

2) *Background*

The markets for commercial financing offer a variety of products that have different structures and terms, and the regulatory treatment of such products varies significantly under existing California law. Generally, there are financing products that fit neatly under legal definitions and interpretations as “commercial loans,” and there are financing products that may not be considered “loans” but that serve a similar basic function – providing a business with funds (or some other asset) that is expected to be repaid in the future, along with interest or other finance charges. In most cases, providers of commercial loans are required to be licensed by the Department of Financial Protection and Innovation (DFPI) and subject to oversight by the department pursuant to the California Financing Law (CFL), unless the provider is exempt from the CFL, such as is the case for banks that are subject to different licensing or chartering laws. Non-loan commercial financing products, however, may be provided without a license and with significantly less oversight from DFPI.

Commercial financing providers are less regulated than financing providers that serve consumers, likely based on the assumption that commercial transactions occur between parties that have higher levels of sophistication and knowledge than those involved in consumer transactions. But in the case of small business owners, is this assumption valid? It seems likely that many small business owners have a similar level of financial literacy, legal

knowledge, and bargaining power as a typical consumer, which would support a similar policy approach that establishes baseline rules and oversight of providers of commercial financing to small businesses.

3) *Scope of transactions covered by this bill*

This bill extends state oversight of commercial financing activities beyond that which is currently provided by the CFL. Within the category of “commercial financing transactions,” there are two general categories: those transactions deemed “commercial loans” for the purposes of the CFL and those not deemed “commercial loans.” Examples in this latter category include products described as merchant cash advances, accounts receivable financing, invoice factoring, and other revenue-based financing products. Providers of commercial financing may offer both commercial loans covered by the CFL and non-loan financing products not covered by the CFL.

This bill expands the CFL to cover a subset of commercial financing transactions that meet all of the following criteria:

- Amount of financing: \$500,000 or less.
- Borrower characteristics: Must be a small business located in California with less than \$19 million of annual revenue.¹
- Non-exempt provider: Certain entities and transactions are exempted by the bill, mostly in line with exemptions provided by the CFL for commercial loan transactions.

Given this scope, the new regulations proposed by this bill should affect few transactions between relatively sophisticated parties. The maximum transaction amount of \$500,000 acknowledges that even if a borrower is considered a small business, that borrower is more likely to retain financial and legal advice, if necessary, to navigate larger and more complex transactions than the small business may be able to handle in-house. Additionally, the requirement that a borrower must be considered a “small business” in order for the regulations to apply means that small transactions between financing providers and larger business borrowers will not be subject to the new regulations. While the transaction amount and revenue threshold to be deemed a “small business” are arbitrary, the proposed amounts appear reasonably tailored to protect small business borrowers without adding unnecessary burdens to transactions between relatively sophisticated parties.

As defined by this bill, a commercial financing transaction includes both loan and non-loan credit products. A provider or broker of a commercial loan is already required to be licensed under the CFL based on existing law, but this bill introduces several new conduct requirements that apply to commercial loans of \$500,000 or less that are offered to small businesses. The requirements are reasonably tailored to protect small businesses from predatory practices, such as taking confessions of judgment or contract clauses that allow for non-judgment bank account garnishment. The proposed disclosure and reporting requirements make these financing markets more transparent, which has benefits for borrowers, fair competition, and focused supervision by DFPI.

¹ Per the limit established by DGS as of the published date of this analysis.

4) *How is this attempt different from all other attempts?*

This bill represents the fourth attempt in three years to extend state oversight into the non-loan commercial financing markets that serves small businesses in California. This Committee passed the three prior bills, but each eventually stalled in the Appropriations Committee of either the Senate or Assembly. While the authors have changed, the same sponsors have been the motivating force behind the four bills – Responsible Business Lending Coalition, CAMEO, and Small Business Majority.²

Unlike the prior three attempts, the commercial financing industry is generally in favor of the expansion of the CFL proposed by this bill, though there are remaining disputes over whether and how specific provisions of the CFL should apply. Prior bills elicited arguments that were more fundamental to the structure of those bills, such as the effort to license commercial financing entities was premature, that many of the proposed industry-specific conduct requirements should not apply, or that a proposed registration scheme under a different law was wholly not appropriate. With this bill, there is broad agreement among small business advocates and commercial financing providers related to the core structure of the bill (i.e., licensing providers and brokers under the CFL framework). Remaining areas of disagreement are relatively minor, and several of those disagreements are addressed by proposed amendments in Comment #7.

5) *Arguments in Support*

CAMEO Network, California Low-Income Consumer Coalition, Responsible Business Lending Coalition, and Small Business Majority write in support:

Small business owners need access to capital – be it a loan or other ‘non-loan’ product. Currently, non-loan products are not subject to the same oversight as regulated loans. This bill requires companies that offer non-loan products and their brokers to be licensed by the Department of Financial Protection and Innovation to receive the same oversight as traditional small business products...

AB 2116 empowers the State to ensure that small business owners can make informed decisions and report bad actors, by establishing an oversight framework and transparency about the products and costs associated with the product that a commercial broker offers the small business owner on behalf of a high-cost commercial lender...

AB 2116 will catalyze fair lending to small businesses by preventing bad-actor financing companies from taking unfair advantage of their competition and of small business customers.

6) *Arguments in Opposition*

The Revenue Based Finance Coalition writes in opposition:

The RBFC supports AB 2116’s goal of reasonable guardrails on commercial financing... The RBFC sincerely appreciates the bill author’s efforts to craft legislation that protects small businesses while maintaining critical access to capital. We also

² The California Low-income Consumer Coalition joined as co-sponsors for AB 2116 but did not sponsor previous attempts.

appreciate that AB 2116 was amended to require licensing providers and brokers of sales-based financing under the California Financing Law (“CFL”). However, we respectfully oppose AB 2116 as currently drafted for the following reasons...

The letter goes on to summarize concerns related to lack of regulatory parity with commercial lending activities, lack of a provision allowing continuity of business operations while waiting for a license application to be reviewed, and definitional conflicts with other laws that relate to small business financing activities.

7) *Amendments*

The following amendments address several concerns raised in opposition letters without undermining the author’s intent.

a) Clarity around usury exemption

The State Constitution contains a usury provision that limits allowable interest for certain loans but provides an extensive list of exempt persons to which the limits do not apply. Examples of exempt persons include banks and other type of creditors, and the provision allows the Legislature to exempt other classes of persons by statute. The CFL contains language stating that the division creates a class of exempt persons. For clarity, this bill can be amended to ensure that any CFL licensee is considered among the class of exempt persons created by the CFL.

Amend Section 22002 of the Financial Code to read:

22002. To accomplish its underlying purposes and policies, this division creates a class of exempt persons pursuant to Section 1 of Article XV of the California Constitution. **The class of exempt persons includes any person licensed under this division.**

b) Provide that commercial financing activities are permitted while a CFL application is being reviewed

Under existing law, commercial financing activity is taking place legally in California outside of any licensure requirements. Industry participants seek clarity that they can continue business activities while DFPI reviews their applications, should this bill be enacted.

Amend proposed Section 22100.6 of the Financial Code to read:

22100.6 (a) A person shall not engage in the business of a commercial financing provider or a commercial financing broker without obtaining a license from the commissioner.

(b) Notwithstanding subdivision (a), a person may engage in the business of a commercial financing provider or a commercial financing broker if the person submits a complete application on or before January 1, 2028, and is awaiting approval or denial of the application.

(c) This section shall become operative on January 1, 2028.

- c) Exempt specified CFL sections from applying to commercial financing transactions.

The CFL exempts commercial loans from several provisions that are otherwise applicable to all CFL licensees. The author has agreed to exempt commercial financing transactions from some of these sections, specifically, those sections related to licensing each location at which a licensee conducts business, prohibition on other business activities conducted at a licensed location, and conducting business under a name that is not approved by DFPI.

Add a proposed Section 22656.5 to the Financial Code, which reads:

22656.5. Sections 22152, 22154, and 22155 do not apply to a commercial financing transaction or to a duly licensed commercial financing provider or commercial financing broker in connection with any such commercial financing transaction.

- d) Clarify when a commercial financing transaction is not enforceable due to licensure status of provider

This bill makes a commercial financing transaction unenforceable if the provider of the transaction is not licensed under the CFL, as required by this bill. This provision should be clarified to accommodate transactions entered into before the operative date of this bill.

Amend proposed Section 22657 of the Financial Code to read:

22657. A commercial financing agreement is not enforceable if unless one of the following applies:

(a) The person providing the commercial financing transaction is a licensed commercial financing provider.

(b) The person providing the commercial financing transaction has submitted a complete application and is awaiting approval or denial pursuant to subdivision (b) of Section 22100.6.

(c) The commercial financing transaction was entered into prior to January 1, 2028.

- 8) *Double Referral*

This bill is double referred to the Committee on Judiciary.

- 9) *Prior and Related Legislation*

SB 728 (Padilla, 2025) would have provided a registration program under the California Consumer Financial Protection Law for persons offering commercial financing or commercial financing brokerage services to California residents. The bill was held by the Senate Appropriations Committee.

SB 1482 (Glazer, 2024) would have provided a registration program under the CCFPL for persons providing commercial financing or commercial financing brokerage services to California residents. The bill died on the Assembly inactive file.

SB 869 (Glazer, 2023) would have expanded the scope of the California Financing Law to cover specified commercial financing transactions offered to small businesses and would have established requirements and prohibitions on commercial financing providers and brokers engaged in such transactions. The bill was held by the Senate Appropriations Committee.

LIST OF REGISTERED SUPPORT/OPPOSITION

Support

California Low-income Consumer Coalition
CAMEO - California Association for Micro Enterprise Opportunity
Small Business Majority
The Responsible Business Lending Coalition

Opposition

Capitol Business Alliance
Innovative Lending Platform Association
Revenue Based Finance Coalition

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