



August 24, 2021

Submitted by Electronic Mail to:

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Commissioner of Financial Protection and Innovation  
Attn: Sandra Sandoval, Regulations Coordinator  
300 South Spring Street, 15<sup>th</sup> Floor  
Los Angeles, CA 90013

Re: Comments on Proposed Rulemaking for Commercial Financing Disclosures –  
Second Modifications Modified August 9, 2021  
File No.: PRO 01-18

Dear Commissioner:

On behalf of Reliant Services Group, LLC dba Reliant Funding (“Reliant Funding”), we would like to thank the California Department of Financial Protection and Innovation (“DFPI”) for taking into consideration the comments submitted in response to the First Modifications of the proposed regulations for the implementation of SB 1235 and working to implement certain changes. We have reviewed the Second Modifications and appreciate the opportunity to submit comments.

Reliant Funding is a financing company that provides capital to small businesses in various industries with a maximum funding amount of \$250,000.00. Reliant Funding provides financing to small businesses by entering into contracts to purchase their future accounts receivable in exchange for an up-front lump sum. This “sales-based financing” (also known as merchant cash advance or “MCA”) provides these small businesses, who may not qualify for traditional financing, with expedited funding and flexible payment terms. While Reliant Funding supports the need for transparency and accurate financial disclosures for small businesses, the proposed regulations still raise issues. As such, Reliant Funding respectfully submits the following comments on the proposed regulations related to the implementation of SB 1235 for your consideration.



***Section 2901 - Estimates – Sales Based Financing – Historical Method (Section 2091)***

The historical method proposed by the DFPI for estimating projections under Section 2901(b)(2) states that “[a] provider shall fix the number of months used to calculate the recipient’s average monthly historical sales, income, or receipts for all transactions, **or by recipient industry or financing amount (or both)**” (emphasis added). As currently drafted, it is unclear whether financiers are able to group certain industries together for the calculation and utilize the same number of months for all recipients in the same industry. Further clarification in this regard would be appreciated.

***Section 3023 – Duties of Financers and Brokers***

Section 3023(a)(3) requires a financer to “[m]aintain a copy of the **evidence of transmission of the disclosures** provided by a broker to the financer in compliance with subdivision (b) for a period of at least four years following the date that the disclosure is presented to the recipient” (emphasis added). However, it is unclear what would constitute “evidence of transmission of the disclosures.” Reliant Funding requests clarification as to what would suffice as evidence to ensure compliance with this section.

Further, subdivision (b) requires a broker to provide the “evidence of transmission of the disclosures to the financer.” However, this section does not contemplate the possibility of fraud on the part of the broker and the potential liability that could be imputed on the provider. Subdivision (c)(2) states that this section is not to be construed to “[c]reate any liability for a broker if the disclosures that the financer provides do not comply,” but does not provide any safeguards or waiver for the provider. Thus, consideration should be given to ensure reciprocity.

***Closing***

Again, we thank you for the opportunity to provide these comments. We are committed to working the DFPI on the proposed regulations for the implementation of SB 1235. If you have any questions upon your review of our comments contained herein, please do not hesitate to contact the undersigned at (858) 249-7340 or [jmerris@reliantfunding.com](mailto:jmerris@reliantfunding.com).

Sincerely,

/s/ Jenny L. Merris

Jenny L. Merris  
Chief Legal & Administrative Officer