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LEGAL UPDATES

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Georgia Introduces New Disclosure Requirements for Commercial Finance Providers

As our team has discussed previously, there is a trend among state legislatures to regulate commercial finance more tightly, including federal Truth in Lending Act (TILA)-style disclosure requirements more typically seen in the consumer lending context. Now, Georgia has become the latest to enact legislation on this front.

Who must comply

Providers of commercial financing in the amount of \$500,000 or less who conduct more than five transactions in Georgia annually will be required to comply with Georgia's new law. The disclosure requirements also apply to entities offering commercial financing products via online platforms administered by depository institutions. Under the statute, commercial financing includes commercial loans, open-end credit plans, and accounts receivable purchase transactions made for a business purpose.

Who is excluded

Federally insured depository financial institutions are excluded, as are their subsidiaries, affiliates, and/or holding companies. The statute also excludes providers regulated under the federal Farm Credit Act, money transmitters licensed in Georgia, and transactions secured by real property, among others. Notably, Georgia's statute also excludes factoring transactions related to healthcare providers' accounts receivables related to the treatment of a patients' personal injuries.

Disclosure requirements

Before consummating a commercial financing transaction, providers must disclose:

Total funds provided to the business

Total funds disbursed (if different from the provided amount)

Total amount to be paid to the provider

Total dollar cost of the transaction

Manner, frequency, and amount of each payment or, if payments will vary, the initial payment

Costs or discounts associated with prepayment

Penalties for noncompliance

Violators may face a civil penalty of \$500 per violation, capped at \$20,000 for all violations using the same transaction documentation. If the violation occurs after the provider receives written notice of a violation, the penalty jumps to \$1,000 per violation, capped at \$50,000.

The new law applies to commercial financing transactions consummated on or after January 1, 2024.

What this means to you

All commercial finance companies conducting business in the state of Georgia should carefully review the new legislation and consider its implications on their loan books. For commercial finance companies that have operations across multiple states, they should be alert to the larger trend of TILA-style disclosure requirements being implemented at the state level and aimed at commercial finance.

Contact us

Husch Blackwell regularly counsels and defends clients in regulatory and private litigation matters involving lending and other forms of financing. For more information, contact Chris Friedman, Alex McFall, or your Husch Blackwell attorney.