



December 14, 2020

## NEW YORK LEGISLATURE FINALLY DELIVERS COMMERCIAL FINANCING DISCLOSURE BILL TO GOVERNOR

On December 11, 2020, the New York legislature finally delivered a bill that, similar to California, requires that specific disclosures be provided in certain commercial financing transactions. The New York bill is strikingly similar to, but does differ from, the California commercial disclosure bill as the New York bill sets forth separate disclosure requirements for a provider extending an offer (i) in accounts receivables purchase or future receivables purchase transaction, (ii) for a commercial loan and (iii) of a commercial line of credit. See our prior Alert dated [Sept. 15, 2020](#).

The New York bill requires that providers of commercial financing provide the disclosures to recipients at the time of extending a specific offer of commercial financing. The New York bill sets forth a list of exemptions, including exemptions for financial institutions and for any person or provider who makes no more than five commercial financing transactions in New York in a 12-month period.

The disclosure requirements in the New York bill are more detailed and vary slightly from the California law. For example, the New York legislation requires a provider extending an offer of a commercial loan to provide the following disclosures: (i) the total amount of the commercial financing and the disbursement amount; (ii) the finance charge; (iii) the annual percentage rate; (iv) the total repayment amount; (v) the term of financing; (vi) the term of the financing; (vii) the payment amounts and frequency; (viii) a description of all other potential fees and charges that can be avoided by the recipient; (ix) prepayment charges; and (x) a description of any collateral requirements or security interest.

The New York Governor has 30 days from the delivery of the bill to sign or veto the bill. If the Governor signs the bill into law, the bill requires that the Superintendent of the Department of Financial Services prescribe formatting requirements for the disclosures.

Reportedly, continued lobbying was the basis for the unusual delay in delivery of the bill to the Governor.

As commercial lenders prepare to comply with the California Commercial Disclosure Law requirements, they should also be cognizant of the New York commercial disclosures. We will continue

to monitor the status of both the California and New York commercial disclosure laws. California and New York join New Hampshire in requiring special commercial disclosures. If you have any questions or would like assistance with the disclosure requirements, please let us know. □

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