

118TH CONGRESS  
2D SESSION

# H. R. 9632

To require certain entities to clearly disclose to small business concerns key information about factoring facility agreements prior to entering such agreements with such concerns, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2024

Mr. LUCAS introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To require certain entities to clearly disclose to small business concerns key information about factoring facility agreements prior to entering such agreements with such concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Capital Access for  
5 Small Businesses Harmonization Act” or the “CASH  
6 Act”.

1 **SEC. 2. DISCLOSURES FOR SMALL BUSINESSES THAT**  
2 **ENTER INTO FACTORING FACILITY AGREE-**  
3 **MENTS.**

4 (a) IN GENERAL.—Prior to entering into a factoring  
5 facility agreement with a small business concern, the pro-  
6 vider for such agreement shall provide to such small busi-  
7 ness concern a written disclosure of the terms of factoring  
8 transactions under such agreement if—

9 (1) the aggregate dollar amount of factoring  
10 transactions authorized under such agreement, in-  
11 cluding any fees and other charges, is less than  
12 \$500,000; or

13 (2) if such agreement does not specify the ag-  
14 gregate dollar amount of factoring transactions au-  
15 thorized under such agreement, the such provider  
16 and the small business concern reasonably believe  
17 that the aggregate dollar amount of factoring trans-  
18 actions under such agreement, including any fees  
19 and other charges, will be less than \$500,000.

20 (b) DISCLOSURE CONTENTS.—Each disclosure re-  
21 quired under subsection (a) with respect to a factoring fa-  
22 cility agreement shall include the following:

23 (1) The amount or percentage, as applicable, of  
24 the difference between the face value of a claim for  
25 payment sold in a factoring transaction and the  
26 amount the provider will pay to small business con-

cern for such claim under such factoring facility agreement.

(2) A list of any fees that may be charged under such factoring facility agreement.

(3) The amount and terms of any reserve under such factoring facility agreement.

(4) The duration of such factoring facility agreement.

(5) An example of a factoring transaction under such factoring facility agreement for a claim for payment sold in a factoring transaction with a face value of \$10,000 that demonstrates—

(A) the amount or percentage described in paragraph (1);

(B) any fees that apply with respect to factoring transactions under such factoring facility agreement;

(C) the maximum amount of the reserve for such factoring transactions under such factoring facility agreement; and

(D) the net amount the provider pays to the small business concern for such claim in such factoring transaction.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a provider to provide

1 to a small business concern the disclosure required under  
2 subsection (a) with respect to the modification of a fac-  
3 toring facility agreement.

4 **SEC. 3. FEDERAL PREEMPTION.**

5 No State or political subdivision of a State may im-  
6 pose a requirement that is in addition to, or inconsistent  
7 with, the requirements of this Act with respect to requir-  
8 ing providers to make disclosures to small business con-  
9 cerns regarding the terms of factoring transactions under  
10 a factoring facility agreement.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) FACTORING TRANSACTION.—The term “fac-  
14 toring transaction” means an agreement for the sale  
15 of accounts receivable of a small business concern  
16 for goods the small business concern has supplied, or  
17 services the small business concern has rendered,  
18 but for which payment has not yet been made and  
19 for which the primary source of repayment to the  
20 provider is payment by the account debtor on the ac-  
21 count receivable being purchased, except that such  
22 term does not include sales-based financing.

23 (2) FACTORING FACILITY AGREEMENT.—The  
24 term “factoring facility agreement” means an agree-  
25 ment between a provider and another entity that es-

1        establishes the terms of factoring transactions between  
2        such provider and another entity.

3            (3) PROVIDER.—The term “provider” means an  
4        individual or entity that—

5            (A) is a purchaser in a factoring trans-  
6        action; and

7            (B) is engaged in interstate commerce.

8            (4) RESERVE.—The term “reserve” means the  
9        portion of any payment under a factoring trans-  
10       action that the provider may withhold from the  
11       small business concern with respect to claims for  
12       payment sold under such factoring transaction, or  
13       any portion of such claims, until such claims, or the  
14       portion thereof, are paid.

15           (5) SALES-BASED FINANCING.—The term  
16        “sales-based financing” means a financing trans-  
17       action that is repaid by the business over time—

18            (A) as a percentage of sales or revenue, in  
19        which the payment amount may increase or de-  
20       crease according to the volume of sales made or  
21       revenue received by the business; or

22            (B) according to a fixed payment mecha-  
23        nism that provides for a reconciliation process  
24        that adjusts the payment to an amount that is  
25       a percentage of sales or revenue.

1           (6) SMALL BUSINESS CONCERN.—The term  
2           “small business concern” has the meaning given  
3           such term under section 3 of the Small Business Act  
4           (15 U.S.C. 632).

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