

New Kansas Law Will Require Disclosures for Commercial Financing Transactions

April 30, 2024 | [Eric D. Mulligan](#)

On April 12, 2024, Kansas Governor Laura Kelly signed SB 345, which establishes commercial financing disclosure requirements. The new law will take effect on July 1, 2024, and will apply to commercial financing transactions of \$500,000 or less. The law defines "commercial financing transactions" to include sales-based financing, factoring, and commercial loan transactions.

The new law will require a provider of commercial financing to give the following disclosures with each commercial financing:

- The total amount of funds provided to the business under the terms of the commercial financing transaction.
- The total amount of funds disbursed under the terms of the commercial financing transaction if less than the total amount of funds provided.
- The total amount to be paid to the provider pursuant to the commercial financing transaction agreement.
- The total dollar cost of the commercial financing transaction, which is determined by subtracting the total amount of funds provided from the total amount to be paid to the provider.
- The manner, frequency and amount of each payment.
- A statement of whether there are any costs or discounts associated with prepayment of the commercial financing transaction, including a reference to the paragraph in the commercial financing transaction agreement that creates the contractual right to prepayment.

Notably, the required disclosures do not include an annual percentage rate.

The new law will also prohibit a broker from charging an advance fee or making any false or misleading statements in its brokering activities.

The new law does not apply to banks, credit unions, real property-secured or purchase-money transactions, or leases. The law also does not apply to a company that makes five or fewer commercial financing transactions in Kansas in a 12-month period.

A company that violates the new law is subject to a civil penalty of up to \$500 per violation and \$20,000 for all aggregated violations. The maximum penalties increase to \$1,000 per violation and \$50,000 for all aggregated violations if the violations occur after the Attorney General has notified the company of a previous violation. The Attorney General has exclusive authority to enforce the law. The new law creates no private right of action against any person for failure to comply.

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