



## **Department of Banking Issues Guidance Regarding Public Act 23-201**

**June 10, 2024**

The Department of Banking (“Department”) issues this guidance, pursuant to the authority set forth in Section 36a-1-8 of the Regulations of Connecticut State Agencies, concerning P.A. 23-201, An Act Requiring Certain Financing Disclosures (“Act”), subsequently codified at Sections 36a-861 to 36a-872, inclusive, of the 2024 Supplement to the General Statutes, to set forth expectations concerning disclosures required by providers in connection with sales-based financing offers made on and after July 1, 2024 pursuant to Sections 36a-863 and 36a-864 of the 2024 Supplement to the General Statutes, and the registration of commercial financing brokers and providers no later than October 1, 2024 pursuant to Section 36a-870 of the 2024 Supplement to the General Statutes. Additional information regarding the registration process of such brokers and providers will soon be made available on the Department’s website and the NMLS Resource Center available [here](#).

### **Disclosure Requirements of the Act**

Section 3 of the Act, codified at Section 36a-863 of the 2024 Supplement to the General Statutes requires that effective July 1, 2024, a provider shall provide to a recipient, when the provider extends a specific offer for sales-based financing, disclosures in a format prescribed by the Banking Commissioner. The required format of such disclosures is attached hereto as [Appendix A](#) to this Guidance.

At this time, the Department has not determined that the laws of any other state require commercial financing disclosures that meet or exceed Connecticut’s commercial financing disclosure requirements, such that another state’s approved form may be used to comply with Connecticut’s disclosure requirements. Considering the limited amount of time available for providers to come into compliance with the disclosure requirements of the Act and Appendix A, the Department is hereby issuing the no-action position set forth below.

### **No-Action Position**

Pursuant to Section 36a-1-8 of the Regulations of Connecticut State Agencies, the Commissioner will not take enforcement action for a provider’s failure to provide the disclosures required by Sections 36a-863 and 36a-864 of the 2024 Supplement to the General Statutes, or obtain the recipient’s signature on disclosures, as required by Section 36a-865 of the 2024 Supplement to the General Statutes, for specific offers of commercial sales-based financing issued from July 1 to September 30, 2024.

### **Sections 8 and 9 of the Act, effective July 1, 2024**

Please be advised that this no-action position does not apply to Section 8 of the Act (prohibition against prejudgment remedy due process waivers) and Section 9 of the Act (mandating three-day review period for specific offers), effective July 1, 2024. Sections 8 and 9 of the Act, codified at Sections 36a-868 and 36a-869 of the 2024 Supplement to the General Statutes, respectively, provide commercial

TEL: (860) 240-8299 ● FAX: (860) 240-8178

Website: <http://www.ct.gov/dob>

*An Affirmative Action/Equal Opportunity Employer*

sales-based financing applicants and borrowers with certain important rights as a matter of law that are independent of the aforementioned disclosure requirements. In particular, Section 36a-868 of the 2024 Supplement to the General Statutes prohibits commercial financing contracts entered into on or after July 1, 2024 from containing provisions waiving a recipient's right to notice, judicial hearing or prior court order under chapter 903a of the general statutes in connection with a prejudgment remedy, and Section 36a-869 of the 2024 Supplement to the General Statutes prohibits specific offers made on or after July 1, 2024, from being revoked, withdrawn or modified until midnight of the third calendar day after the date of the specific offer and sets forth circumstances upon which the offer may be revoked, withdrawn or modified.

Should you have any questions concerning this guidance or the Act's requirements, please contact Anne Cappelli at [anne.cappelli@ct.gov](mailto:anne.cappelli@ct.gov).

**COMMERCIAL (SALES-BASED) FINANCING DISCLOSURE FORM**

(pursuant to Part XVI of Chapter 669 of the 2024 Supplement to the General Statutes)

<b>Total Amount of the Commercial Financing</b>	\$	<b>Disclosure Date:</b>  <b>Recipient's Name:</b>  <b>Recipient's Address:</b>   <b>Provider's Name:</b>  <b>Provider's Address:</b>   <b>Provider's Phone Number:</b>  <b>Provider's E-mail Address:</b>
<b>Fees Deducted or Withheld at Disbursement</b>	\$	
<b>Disbursement Amount</b> [Total Amount of the Commercial Financing minus (-) Fees Deducted or Withheld at Disbursement]	\$	
<b>Finance Charge</b>	\$	
<b>Total Repayment Amount</b> [Disbursement Amount plus (+) Finance Charge]	\$	
<b>Estimated Time Period Required for the Periodic Payments to Equal the Total Repayment Amount</b> [Number of payments expected, based on the projected sales volume, to equal the Total Repayment Amount]  A reasonable range may be provided ONLY for transactions with a variable payment schedule.		
<b>Payment Schedule</b> <b>For Fixed Payment Amounts:</b> <input type="checkbox"/> Amount of each fixed payment: \$ <input type="checkbox"/> Frequency of fixed payments: <b>For Variable Payment Amounts:</b> <input type="checkbox"/> Variable payment schedule, or <input type="checkbox"/> Description of the method used to calculate the amount and frequency of each variable payment:		
<input type="checkbox"/> SEE PAGE 2		
<b>Description of All Other Potential Fees and Charges <u>NOT</u> Included in the Finance Charge</b> (including draw fees, late payment fees, and returned payment fees)		
<input type="checkbox"/> SEE PAGE 2		
<b>Description of Collateral Requirements or Security Interests</b>		
<input type="checkbox"/> SEE PAGE 2		
<b>Broker Compensation</b>	Is Provider paying compensation directly to a broker? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, amount of compensation being paid directly to broker: \$
<b>Additional Finance Charges or Fees upon Prepayment</b> (including the percentage of any unpaid portion of the finance charge and the maximum dollar amount of finance charge)		
<input type="checkbox"/> SEE PAGE 2		

Initials

Date

**COMMERCIAL (SALES-BASED) FINANCING DISCLOSURE FORM - PAGE 2**

(pursuant to Part XVI of Chapter 669 of the 2024 Supplement to the General Statutes)

**Recipient's Name:****Disclosure Date:****Recipient's Address:****Provider's Name:****The information provided below relates to the following checked item(s):**

- Variable payment schedule
- Description of the method used to calculate the amount and frequency of each variable payment
- Description of all other potential fees and charges not included in the finance charge
- Description of collateral requirements or security interests
- Description of prepayment policies, finance charges and fees

**If a renewal financing transaction:**

Outstanding Loan Balance Paid from Disbursement	\$
Total Amount New Financing Used to Payoff Prepayment Charges & Unpaid Interest on existing commercial financing	\$
<ul style="list-style-type: none"> <li>Prepayment Charges Payable to Provider</li> </ul>	\$
<ul style="list-style-type: none"> <li>Unpaid Interest Payable to Provider Not Forgiven at the time of Renewal</li> </ul>	\$

Connecticut law prohibits commercial financing contracts from having any provision waiving a recipient's right to notice, judicial hearing, or prior court order under Chapter 903a in connection with a prejudgment remedy.

Provider will not revoke, withdraw, or modify a specific offer for commercial financing made until midnight of the third calendar day after the date of this offer, or at the borrower's request.

This specific offer for commercial financing is (1) based on the provider's preliminary review of application information only and (2) not a final approval or commitment to provide commercial financing.

**Acknowledgement:** I/We acknowledge that I/we have received this Commercial Financing Disclosure Form.

**Signature of Borrower:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature of Co-Borrower (if applicable):** \_\_\_\_\_

**Date:** \_\_\_\_\_