

## Summary of Proposed New 23 NYCRR 600 (Disclosure Requirements for Commercial Financing)

Section 600.00 describes the statutory basis for the regulation and the statutory authority of the Department of Financial Services to promulgate disclosure forms and calculations.

Section 600.01 contains definitions of terms that are used in Part 600.

Section 600.02 specifically defines the finance charges for particular types of commercial financing.

Section 600.03 sets requirements for the Annual Percentage Rate (“APR”) disclosures for commercial financing transactions.

Section 600.04 discusses permissible deviations in the calculation of APRs and the allowed tolerances for these deviations.

Section 600.05 provides general formatting instructions for any disclosure document provided to a prospective borrower.

Section 600.06 provides more specific formatting instructions for disclosures concerning sales-based financings provided in accordance with Financial Services Law section 803.

Section 600.07 provides specific instructions concerning the estimation and calculation of payments, finance charges and APRs, among other items, for sales-based financings.

Section 600.08 provides special rules for sales-based financing that apply the “historical method” described in Financial Services Law section 803.

Section 600.09 sets forth special rules for sales-based financings that use the “opt-in method” described in Financial Services law section 803. Providers who utilize this method must conduct annual audits to compare their original estimates with the annual rates actually charged on this type of financing.

Section 600.10 specifies the disclosure formatting to be used for closed-end commercial financings in accordance with Financial Services Law section 804.

Section 600.11 specifies the disclosure formatting to be used for open-end commercial financings in accordance with Financial Services Law section 805.

Section 600.12 specifies the disclosure formatting to be used for factoring transactions in accordance with Financial Services Law section 806.

Section 600.13 states an assumption to be used when calculating required disclosures for factoring transactions.

Section 600.14 specifies the disclosure formatting for lease financing transactions.

Section 600.15 specifies the disclosure formatting for asset-backed lending transactions in accordance with Financial Services Law section 807.

Section 600.16 specifies the disclosure formatting for all other commercial financing transactions to be provided in accordance with Financial Services Law section 807. This general category is applicable if other more specific categories of financing stated above are not applicable.

Section 600.17 sets forth requirements an additional disclosure concerning the funding that a prospective recipient will receive after itemized adjustments for various fees deducted from the gross amount of the financing.

Section 600.18 specifies the signature requirements for recipients to acknowledge their receipt of required disclosures.

Section 600.19 provides a calculation method to be used to determine if a particular financing is exempt from the scope of the regulation. Financings in excess of \$2,500,000 are exempt from Part 600. This section provides instruction on how to measure the aggregate financing provided by financing type.

Section 600.20 provides general rules for hybrid financings that do not neatly fall within the other categories stated above.

Section 600.21 sets forth the general duties of financiers and brokers during the underwriting process and their respective document retention requirements.

Section 600.22 sets forth the required annual reports that financiers must file with the Department of Financial Services if they elect to use the opt-in method for calculating APRs for a sales-based financing. This is the sole reporting requirement for regulated entities under Part 600.

Section 600.23 provides for an effective date for the regulation. Financiers and brokers shall comply with disclosure requirements six months after the effective date.