




Operational Preparedness: Are You Ready for the New CA and NY Disclosure Requirements?

Special Webinar Presentation
July 28th, 1-3pm EST



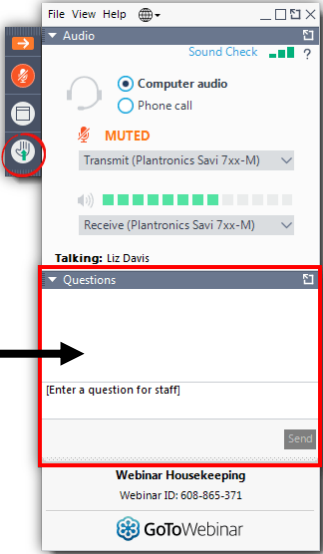
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Housekeeping



Today's web seminar is being recorded.

All questions should be submitted via the Questions Panel.



Webinar Housekeeping
Webinar ID: 608-865-371
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Welcome/Introduction



Ralph Petta
President & CEO
ELFA

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Presenters

Operational Preparedness: Are You Ready For The New CA and NY Disclosure Requirements?

Moderator: Scott Riehl - VP, State Government Relations, ELFA

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Proposed Exemptions in Missouri Legislation

SECTION 4. EXEMPTIONS

This Chapter does not apply to any of the following:

(a) A Provider that is a Depository Institution or a subsidiary or service corporation that is (i) owned and controlled by a Depository Institution; and (ii) regulated by a federal banking agency.

(b) A Provider that is a lender regulated under the federal Farm Credit Act (12 U.S.C. Sec. 2001 et seq.).

(c) A Commercial Financing Product that is (i) secured by real property, (ii) a lease as defined in Mo. Ann. Stat. 400:2A-103, or (iii) a purchase money obligation as that term is defined under Mo. Stat. Ann 400.9-103.



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Proposed Exemptions in Missouri Legislation

continued

(d) A Commercial Financing Product in which the Recipient is a motor vehicle dealer or an affiliate of such a dealer, or a vehicle rental company, or an affiliate of such a company, pursuant to a Commercial Loan or Commercial Open-end Credit Plan of at least fifty thousand dollars (\$50,000); or a commercial financing product offered by a person in connection with the sale of products or services that such person manufactures, licenses, or distributes, or whose parent company or any of its owned and controlled subsidiaries manufactures, licenses or distributes.

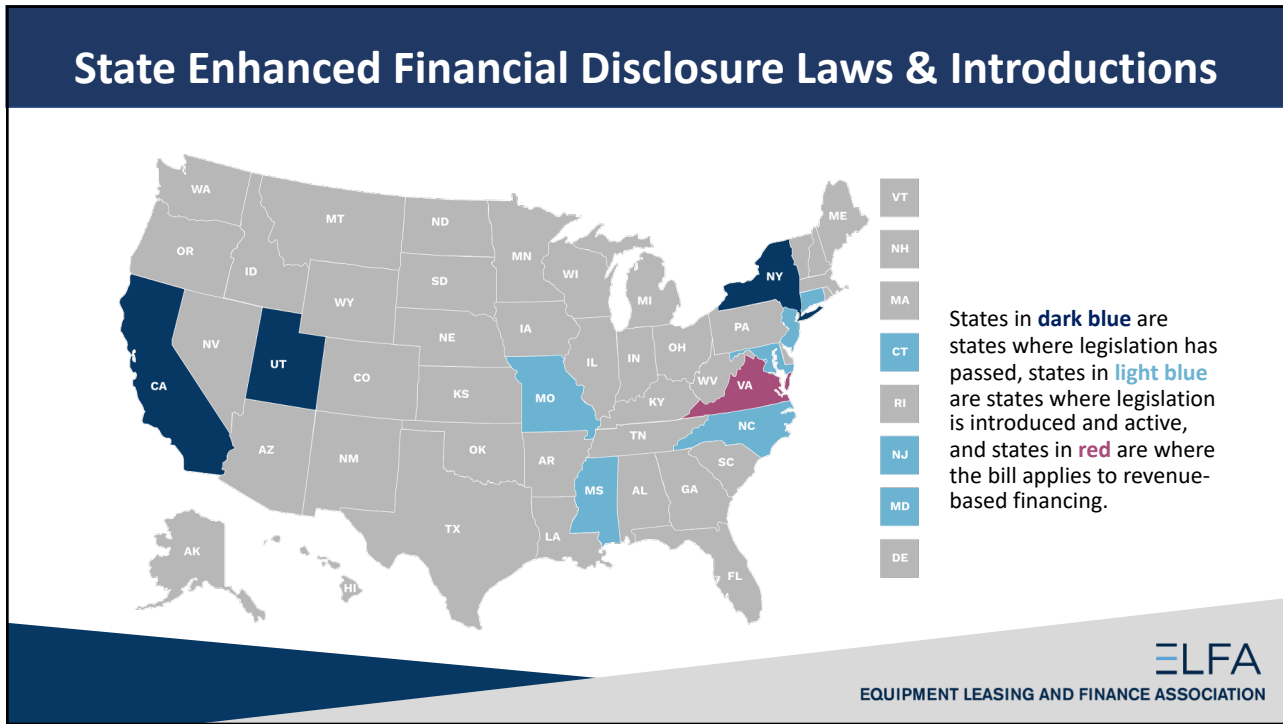
(e) A Provider that is licensed as a money transmitter in accordance with a license, certificate, or charter issued by this state, or any other state, district, territory, or commonwealth of the United States.

(f) A Provider that consummates no more than five (5) Commercial Financing Products in this state in a 12-month period.



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Legal Discussion: Disclaimer

The information contained herein is for informational purposes only and does not constitute legal advice. The situation around these laws is fluid and the information discussed in this presentation may not reflect all legal developments. You should not act or rely on any information in this presentation without consulting your legal counsel.

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Generally Who Must Comply Under CA & NY?

Subject to the exemptions “Providers” must comply.

A “Provider” is a person who extends a specific offer of commercial financing to a recipient.

Unless otherwise exempt, “Provider” also includes a person who solicits and presents specific offers of commercial financing on behalf of a third party.

Brokers may be included as Providers, depending upon the circumstances.



Exemptions*

Generally financial institutions such as banks, trust companies, industrial loan companies, federally chartered savings and loan associations, federal savings banks, or federal credit unions.

There is no exemption for bank subsidiaries in NY & CA.

*This is a general non-exclusive description of the exemptions, please consult the applicable statute for the specific definition.



Other Exemptions*



- A “true lease”;
- A commercial financing transaction secured by real property;
- A lender regulated under the Federal Farm Credit Act;
- Motor vehicle dealers and rental vehicle companies (as defined under CA & NY law, respectively).

*This is a general non-exclusive description of the exemptions, please consult the applicable statute for the specific definition.

Other Exemptions*

California

- An individual commercial transaction in an amount over \$500,000;
- Any person who makes no more than one commercial financing transaction in California in a 12-month period or any person who makes five or fewer commercial financing transactions in California in a 12-month period that are incidental to the business of the person relying on the exemption.

New York

- An individual commercial transaction in an amount over \$2,500,000;
- The personal provider who makes no more than 5 commercial financing transactions in the state in a 12 month period; and
- A technology service provider.

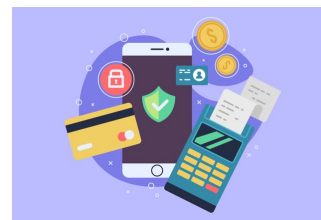
*This is a general non-exclusive description of the exemptions, please consult the applicable statute for the specific definition.

General Disclosure Requirements Under CA & NY Law

- ✓ The total amount of commercial financing and the disbursement amount, if different from the financing amount, after any fees deducted or withheld at disbursements;
- ✓ The finance charge (broadly defined);
- ✓ The annual percentage rate using only the words annual percentage rate or the abbreviation "APR" expressed as a yearly rate, inclusive of any fees and finance charges that cannot be avoided by a recipient and calculated in accordance with the Federal Truth in Lending Act, Regulation Z 12. C.F.R. §1026.22, regardless of whether such act or such regulation would require such a calculation.
- ✓ The term of financing.
- ✓ The total repayment amount (disbursement plus finance charge).
- ✓ A description of the collateral requirements or security interests, if any.

General Disclosure Requirements Under CA & NY Law

- ✓ For fixed payments, the payment amount and frequency (daily, weekly, monthly) and if the term is longer than one month, the average monthly payment amount.
- ✓ For variable payment amounts, the full payment schedule or description of the method used to calculate the amounts and frequency of payments and if the term is longer than one month the estimated average monthly payment amount.



General Disclosure Requirements Under CA & NY Law

Fees and Charges

- ✓ A description of all other potential fees and charges that can be avoided by the recipient, including but not limited to, late payment fees and returned payment fees.
- ✓ Prepayment Penalties

Timing of Disclosure

- ✓ At the time of extending a specific offer for the covered financing.
- ✓ **Not at the time the financing documents are signed.**
- ✓ If more than one offer for financing is provided, when the borrower makes its selection.

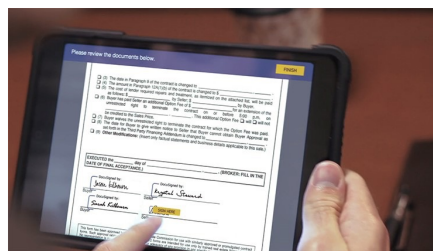
PUBLIC POLICY: to allow a borrower to compare multiple offers for financing in a similar format.



Required Signature

Required signature.

The provider shall obtain the recipient's signature, which may be fulfilled by an electronic signature, on all disclosures required to be presented to the recipient by this article before authorizing the recipient to proceed further with the commercial financing transaction application.

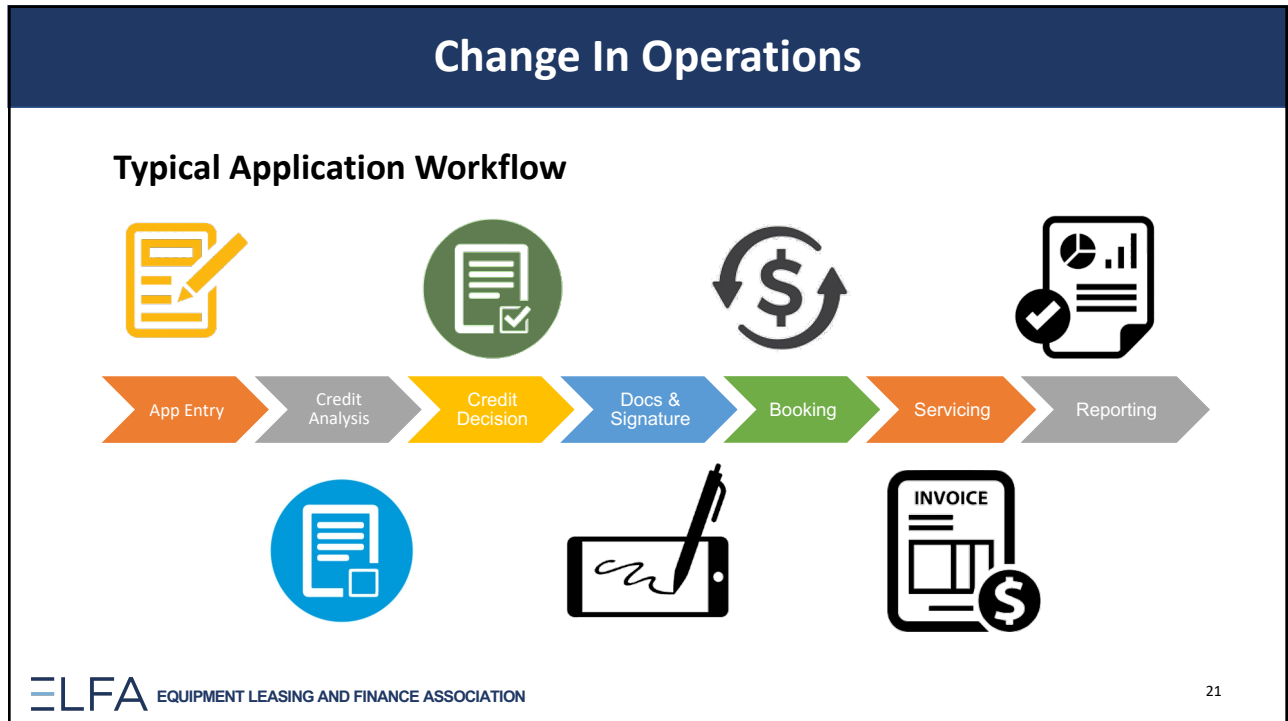


Penalties

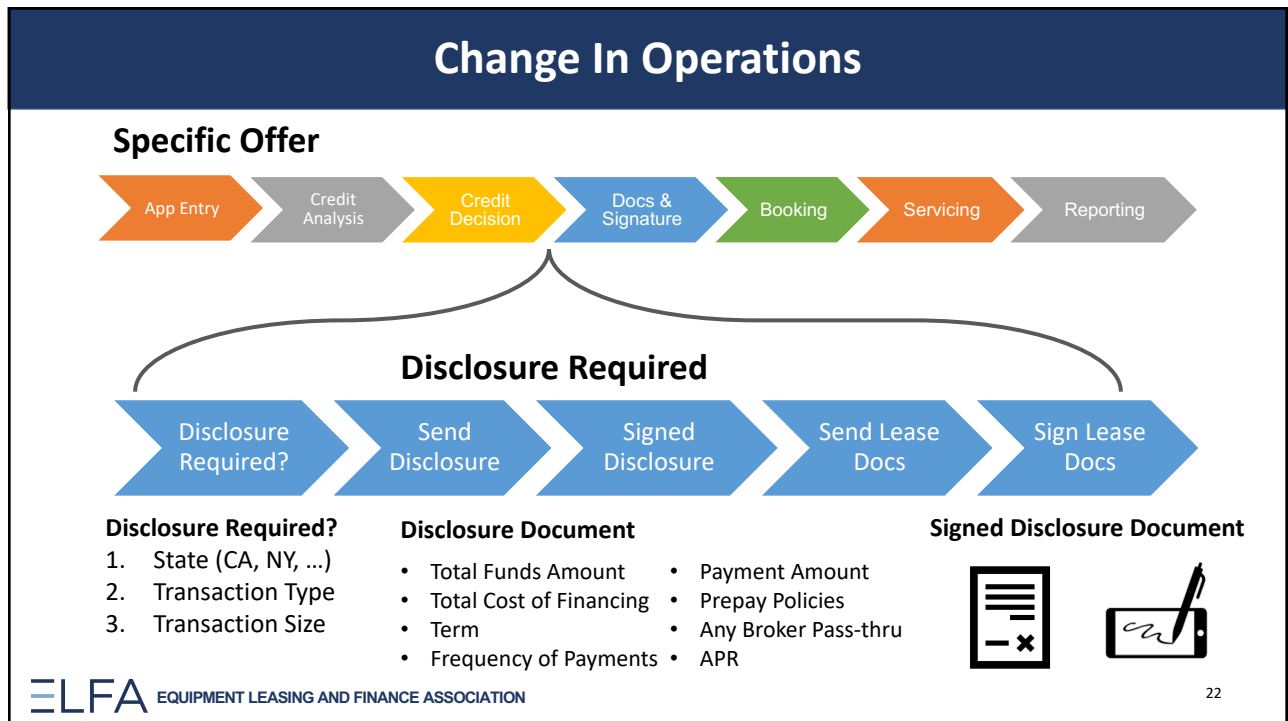
[NY] (a) Upon a finding by the superintendent that a provider has violated the provisions of this article, or the rules or regulations promulgated hereunder, the provider shall be ordered to pay to the people of this state a civil penalty for each violation of this article or any regulation or policy promulgated hereunder a sum not to exceed two thousand dollars for each violation or where such violation is willful ten thousand dollars for each violation.

(b) In addition to any penalty imposed pursuant to subdivision (a) of this section, upon a finding by the superintendent that a provider has knowingly violated this article, the superintendent may order additional relief, including, but not limited to, restitution or a permanent or preliminary injunction on behalf of any recipient affected by the violation.





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Change In Operations

Operational Impacts?

Depends on Level of Automation

Low or Manual  Disclosure Document → Signed Disclosure → Lease Documents → Signed Lease Docs

Highly Automated  Disclosure Document → Signed Disclosure → Lease Documents → Signed Lease Docs

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Thank You!



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ELFA Webinar Presenters

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