

Borrower's Bill of Rights

Source: <https://us.accion.org/homepage/borrowers-bill-of-rights/>

1. The Right to Transparent Pricing and Terms

You have a right to see the cost and terms of any financing you are offered in writing and in a form that is clear, complete, and easy to compare with other options, so that you can make the best decision for your business.

WHAT THIS MEANS FOR LENDERS AND BROKERS

- Transparent Rate – Disclose an annualized interest rate or APR
- No Hidden Fees – Disclose all upfront and scheduled charges
- Plain-English Terms – Describe all key terms in an easy-to-understand manner, including the loan amount, payment amount and frequency, collateral requirements, and the cost of prepayment
- Clear Comparison – Present all of these pricing and other key terms clearly and prominently, in writing, to the borrower when the loan offer is summarized for the borrower and whenever a term sheet, offer summary, or equivalent is provided

2. The Right to Non-Abusive Products

You have the right to loan products that will not trap you in expensive cycles of re-borrowing. Lenders' profitability should come from your success, not from your failure to repay the loan according to its original terms.

WHAT THIS MEANS FOR LENDERS

- No Debt Traps – If the borrower is unable to repay an existing loan, extend new credit only if due diligence indicates that the borrower's situation has changed, enabling them to repay the new loan.
- No "Double Dipping" – When refinancing or modifying a loan, do not add new fees or fixed charges on existing principal.
- No Hidden Penalties – Charge interest only on the time period that the loan remains outstanding. If the borrower pays off a loan early, do not charge interest or periodic costs associated with the remaining period of the loan, unless such costs have been clearly disclosed, prior to making the loan and specifically disclosed at the time of payoff, as a prepayment penalty or fee.
- Pressure Free – Allow borrowers a reasonable time to consider their loan options free from pressure or artificial timelines.

3. The Right to Responsible Underwriting

You have a right to work with lenders who will set you up for success, not failure. High loss rates should not be accepted by lenders simply as a cost of business to be passed on to you in the form of high rates or fees.

WHAT THIS MEANS FOR LENDERS

- Believe in the Borrower – Offer financing only with high confidence that the borrower can repay its entire debt burden without defaulting or re-borrowing.

- Alignment of Interests – Lenders who receive repayment directly from the borrower’s gross sales must also verify, through documents, data from third parties, and/or due diligence, that the borrower can repay all indebtedness and remain profitable, or that it has a credible path to profitability. Lenders must not rely on an ability to be paid, regardless of the borrower’s profitability, to make loans that the borrower cannot afford.
- Right-sized Financing – Size loans to meet the borrower’s need, rather than to maximize the lender’s or broker’s revenue. Seek to offer the borrower the size of loan that they need, rather than offering the maximum amount they qualify for.
- Responsible Credit Reporting – Report loan repayment information to major credit bureaus and consult the borrower’s credit data when underwriting a loan. Such reporting enables other lenders to responsibly underwrite the borrower and helps the borrower build a credit profile that may facilitate access to more affordable loans in the future. Lenders must inform the borrower and any guarantors if they intend to report loan repayment performance to guarantors’ credit bureaus only in certain circumstances, such as after a default.

4. The Right to Fair Treatment from Brokers

You have a right to transparency, honesty and impartiality in all of your interactions with brokers.

WHAT THIS MEANS FOR BROKERS

- Transparent Loan Options – Disclose all loan options for which the borrower qualifies through the broker’s services, emphasizing the lowest APR option, and disclose all lenders to which the broker sends loan applications on the borrower’s behalf.
- Transparent Broker Fees – Disclose all compensation paid to the broker, and all charges that will be paid directly or indirectly by the borrower, whether paid up front or financed in the loan.
- Transparent Results – Post clearly and prominently on the broker’s website the anonymous and aggregated results of borrowers who obtain financing through the broker’s services, in terms of APR and financing product.
- Empower Borrowers to Make Informed Financing Decisions – Educate the borrower on each loan option and ensure that the borrower reasonably understands the cost and terms as well as the pros and cons of financing decisions before they sign a loan document. Brokers should use tools that help the potential borrower comparison shop, including APRs and loan calculators.
- No Fees for Failure – No fees can be charged to the potential borrower if the broker is unable to find them a loan and if the borrower does not accept a loan secured through the broker’s services.

5. The Right to Inclusive Credit Access

You have a right to fair and equal treatment when seeking a loan.

WHAT THIS MEANS FOR LENDERS AND BROKERS

- Non-Discrimination – Respect the letter and intent of fair lending laws, including the Equal Credit Opportunity Act. Do not discriminate against small business

owners on the basis of race, color, religion, national origin, sex, marital status, age, sexual orientation or identity, or any other protected class. Lesbian, Gay, Bisexual and Transgender (LGBT) small business owners deserve the same protection when seeking or obtaining credit.

6. The Right to Fair Collection Practices

If you are unable to repay a loan, you have a right to be treated fairly and respectfully throughout the collections process. Collections on defaulted loans should not be used by lenders as a primary source of repayment.

WHAT THIS MEANS FOR LENDERS

- Fair Treatment – Abide by the spirit of the Fair Debt Collection Practices Act and provide borrowers similar protections as described in that Act.
- Responsible Oversight – Diligently vet and oversee the collections practices of third-party collectors and debt buyers. Do not work with collectors or debt buyers who fail to treat borrowers fairly.
- Accurate Information – Transmit accurate, current and complete information about the loan to third-party collectors and debt buyers.

