

## 2024 Kansas Statutes

**75-783. Citation of act; definitions.** (a) The provisions of K.S.A. 2024 Supp. 75-783 through 75-787, and amendments thereto, shall be known and may be cited as the commercial financing disclosure act.

(b) As used in the commercial financing disclosure act:

(1) (A) "Account" includes:

(i) A right to payment of a monetary obligation, whether or not earned by performance, for:

(a) Property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of;

(b) services rendered or to be rendered;

(c) a policy of insurance issued or to be issued;

(d) a secondary obligation incurred or to be incurred;

(e) energy provided or to be provided;

(f) the use or hire of a vessel under a charter or other contract;

(g) arising out of the use of a credit card or charge card or information contained on or for the use with such card; or

(h) winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state or person licensed or authorized to operate such lottery or game by a state or governmental unit of a state; and

(ii) healthcare insurance receivables.

(B) "Account" does not include:

(i) Rights to payment evidenced by chattel paper or an instrument;

(ii) commercial tort claims;

(iii) deposit accounts;

(iv) investment property;

(v) letter-of-credit rights or letters of credit; or

(vi) rights to payment for moneys advanced or sold other than rights arising out of the use of a credit card or charge card or information contained on or for use with such card.

(2) "Accounts receivable purchase transaction" means any transaction in which a business forwards or otherwise sells to a provider all or a portion of accounts of such business, cash receipts or payment intangibles at a discount to the expected value of such accounts or payment intangibles. The provider's characterization of an accounts receivable purchase transaction as a purchase shall be conclusive that such accounts receivable purchase transaction is not a loan or a transaction for the use, forbearance or detention of money.

(3) "Act" means the commercial financing disclosure act.

(4) "Advance fee" means any consideration that is assessed or collected prior to the closing of a commercial financing transaction by a broker.

(5) (A) "Broker" means any person who, for compensation or the expectation of compensation:

(i) Arranges a commercial financing product transaction between a third party that, if executed, such transaction would be binding upon such third party; and

(ii) communicates such transaction to a business in this state.

(iii)\* "Broker" does not include a provider or any individual or entity whose compensation is not based or dependent upon the terms of the specific commercial financing product obtained or offered.

(6) "Business" means an individual, group of individuals, sole proprietorship, corporation, limited liability company, trust, estate, cooperative, association, limited partnership or general partnership engaged in a business activity.

(7) "Business purpose transaction" means any transaction in which the proceeds resulting therefrom are provided to a business or are intended to be used to carry on a business and are not for personal, family or household purposes. A provider may rely on any written statement of intended purpose signed by a business to determine whether such transaction is a "business purpose transaction". Such written statement may be a separate statement or may be contained in an application, agreement or other document signed by such business or the owner of such business.

(8) "Commercial financing facility" means a provider's plan for purchasing multiple accounts receivable from the recipient over a period of time pursuant to an agreement that sets forth the terms and conditions governing the use of the facility.

(9) "Commercial financing transaction" means any commercial loan, accounts receivable purchase transaction and commercial open-end credit plan when the transaction is a business purpose transaction.

(10) "Commercial loan" means a loan to a business, whether secured or unsecured.

(11) "Commercial open-end credit plan" means commercial financing extended by a provider under a plan in which:

(A) The provider reasonably contemplates repeat transactions; and

(B) subject to any limit set by the provider, the amount of financing that such provider may extend to the business during the term of the plan is made available to the extent that any outstanding balance is repaid.

(12) "Depository institution" means a bank, trust company, industrial loan company, savings and loan association, savings bank or credit union doing business under the authority of a license, certificate or charter issued by the United States, this state or any other state and that is authorized to transact business in this state.

(13) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money and oil, gas or other minerals before extraction. "General intangible" includes payment intangibles and software.

(14) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(15) "Person" means any individual, firm, company, partnership, corporation or association.

(16) "Provider" means a person who consummates more than five commercial financing transactions to a business located in this state in a calendar year. "Provider" includes a person that enters into a written agreement with a depository institution to arrange for the extension of a commercial financing transaction by such depository institution to a business through an online lending platform administered by such person.

**History:** L. 2024, ch. 29, § 1; July 1.

Revisor's Note:

\* Subparagraph designated as "(iii)" should have been designated as "(B)" instead.