



January 13, 2026

The Honorable Kristen Gonzalez
Chair, Internet and Technology Committee
New York State Senate

Letter in Opposition to Senate Bill 1169

Dear Chair Gonzalez and Members of the Internet and Technology Committee,

The Innovative Lending Platform Association (ILPA) is writing to express our concerns and opposition to Senate Bill 1169. While we support the bill sponsor's intent of reducing bias in the use of artificial intelligence, we are concerned that S 1169's broad definitions and scope unfairly target companies using artificial intelligence to mitigate human bias in consequential decision-making, particularly in the financial lending space.

ILPA is the leading trade organization for online lenders and service companies serving small businesses. Our members¹ provide various innovative, digital commercial financing products. They proudly supply thousands of New York businesses with working capital to invest, purchase inventory, hire additional staff for the busy season, expand operations, or repair damaged or outdated equipment. Using innovative underwriting and advanced technology, our members assess credit risk and deliver financing in as little as 24 hours.

Our members' digital approach to underwriting takes inherent human biases out of the equation. In contrast to in-person application processes, which can be influenced by conscious and subconscious biases, applying for financing online removes these variables from consideration. Our members' AI algorithms evaluate a business's health and risk as a financing recipient and do not consider "actual or perceived age, race, ethnicity, creed, religion, color, national origin, citizenship or immigration status, sexual orientation, gender identity, gender expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, pregnancy, pregnancy outcomes, height, weight, reproductive health care or autonomy, or status as a victim of domestic violence." In fact, a 2019 study conducted by FinRegLab examined AI underwriting using cash-flow variables and found that this particular AI underwriting predicted creditworthiness as effectively, or even better than, traditional credit scores, particularly with historically underserved populations.²

¹ BackD Business Funding, Biz2Credit, Dedicated GBC, Fiserv, FundBox, Lendio, Mulligan Funding, and OnDeck

² FinRegLab. (2019, July). The Use of Cash-Flow data in underwriting Credit: Empirical Research Findings — FinRegLab. Retrieved July 10, 2025, from <https://finreglab.org/research/the-use-of-cash-flow-data-in-underwriting-credit-empirical-research-findings/>

S 1169 requires AI deployers to disclose the use of automated consequential decision processes and allow the borrower to opt out of them, meaning they would need a manual, human review of their financing application. Our members utilize advanced technological systems to ensure that they can provide small businesses with timely access to financing. If customers opt out of automated decision systems, our members would not be able to provide financing in the time small businesses need (when a pizza oven breaks, every day waiting to get financing for a repair is lost revenue), and would have to hire teams of underwriters to manage the opt-outs, raising costs for small business borrowers. The bill also requires deployers to allow customers to appeal an AI decision, requiring human review. Similar to the opt-out requirement, appealing to a human decision maker takes time and requires hiring enough staff to manage any appeals, further increasing the costs of providing New York small businesses with financing.

Lastly, the bill would subject both developers and deployers of AI used for consequential decisions to hire third-party auditors to review their AI algorithms for bias. New York's anti-discrimination laws do not require companies that do not use AI in consequential decision-making processes to conduct annual audits, meaning that they are spared these regulatory costs and burdens. Automatically requiring companies using AI responsibly, without any evidence of discriminatory practices, to undertake costly audits instead of focusing on actual instances of discrimination is an unnecessary burden that punishes good actors who use AI to overcome human bias and doesn't meaningfully improve outcomes. Small business lenders are especially exposed to these consequences, and this would result in reduced access to credit due to slowed operations and increased regulatory burdens. New York and the country already have anti-discriminatory laws on the books that can, and should, be applied to companies using AI to discriminate unlawfully.

No small business should face discrimination when applying for critically important financing. It is our members' experience that AI-based underwriting significantly reduces the inherent bias that applicants may face when applying for financing in person. While the goals of this legislation are laudable, it would, unfortunately, penalize companies like ILPA members that use technology to overcome bias and discrimination.

ILPA welcomes further discussion. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Scott Stewart', with a long horizontal flourish extending to the right.

Scott Stewart
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