



November 8, 2019

Chairwoman Maxine Waters
U.S. House Committee on Financial Services
INSERT ADDRESS

Ranking Member Patrick McHenry
U.S. House Committee on Financial Services
INSERT ADDRESS

Re: H.R. 3490, the Small Business Lending Fairness Act

Dear Chairwoman Waters and Ranking Member McHenry:

As organizations committed to supporting our nation's small businesses, the Responsible Business Lending Coalition (RBLC) writes today urging you to support H.R. 3490, the bipartisan Small Business Lending Fairness Act, which would address one of the most egregious predatory practices in small business financing.

The RBLC is a network of non-profit and for-profit lenders, investors and small business advocates that share a commitment to innovation in small business lending and serious concerns about the rise of irresponsible small business lending. In 2015, the coalition created the first cross-sector consensus on the rights that small business owners deserve and what financing providers, brokers and lead generators can do to uphold those rights. Since the creation of the Small Business Borrowers' Bill of Rights, nearly 60 small business lenders, brokers and lead generators have committed to uphold these rights, and nearly 50 advocacy and support organizations have endorsed them.

One of the key tenets of the Borrowers' Bill of Right is the right to fair collection practices, which is we're particularly concerned about a little-known legal tool called a confession of judgment. A confession of judgment is a clause commonly found in small business lending that requires borrowers to agree in advance to lose any dispute with a lender. Confessions of judgment are already banned in the United States for consumer loans, but they remain legal at the federal level for business loans, and are legal in many states.

We are urging action on this issue in light of a troubling rise in small business borrowers falling prey to confessions of judgment with little recourse, forcing some to close their business when they're unable to keep up with their repayments. The Small Business Lending Fairness Act, co-authored by Congresswoman Nydia Velázquez (D-NY) and Congressman Roger Marshall (R-KS), would address this issue by banning confessions of judgment nationwide.

A federal prohibition is needed because even states like New York that [recently moved](#) to outlaw confessions of judgment are only looking to do so for out-of-state loans; the practice would remain legal in the state and would not protect New York small businesses. What's more, oftentimes small business borrowers are signing contracts unaware they are agreeing to this clause, or if they are aware, they agree to these unfavorable terms because it is the only way for them to gain needed financing.

Indeed, confessions of judgment have devastated countless entrepreneurs that simply needed funds to start or grow their businesses. In some cases, confessions of judgment cost faultless borrowers more than their businesses—they also lost their entire life savings.

These confessions are egregious, but there are many more unfair terms hiding in unregulated financing documents that we must continue to root out. Many members of our coalition see firsthand borrowers who sign onto loans that are more than twice what they can afford, lured into a debt trap by pricing that is neither simple nor honest.

This legislation would be a significant step forward to protect small businesses from predatory forms of lending, and we hope you support this as part of a broader congressional agenda to shield small firms from harmful financial products. For example, following a 2018 Bloomberg Businessweek investigation, the Bloomberg Businessweek editorial board called for policymakers to pass small business truth-in-lending protections as “the best solution” to protect small businesses from harmful lending practices, citing the Responsible Business Lending Coalition’s [policy proposal](#).

Banning confessions of judgment would remove arcane legal language meant to mislead business owners into signing away their rights. We urge you to support this important legislation and help ensure our nation’s job creators have access to the responsible lending they need to start and grow their businesses, and in turn grow our economy.

Sincerely,

The Responsible Business Lending Coalition

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[Responsible Business Lending Coalition](#)

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