



November 13, 2019

The Honorable Maxine Waters
Chairwoman
U.S. House Committee on Financial Services
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
U.S. House Committee on Financial Services
Washington, D.C. 20515

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 practices. 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 more than 50 advocacy and support organizations have endorsed them.

One of the key tenets of the Borrowers' Bill of Rights is the right to fair collection practices, which is why we are authoring this letter. 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 for business loans at the federal level and in many states.

We are urging swift 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 after their assets are seized. 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.

Our coalition's position is a result of extensive conversations with signatories and supporters of the Small Business Borrowers' Bill of Rights who are similarly focused on expanding access to capital for small business owners while managing risk to sustain our missions. Our consensus is that regardless of whether some lenders have used confessions of judgment in a non-predatory manner, the tool is too

easily weaponized for abuse and contributes to an environment that is causing too many small businesses financial ruin, with devastating implications for their owners, their employees and their communities. In some cases, confessions of judgment cost faultless borrowers more than their businesses—they also lost their entire life savings. What's more, some community-based lenders that used confessions of judgment in the past have since ceased the practice as a result of these conversations and maintain that the tool has caused too much harm to continue being available to lenders—good and bad actors alike.

These confessions are egregious, and 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.

We urge the House Financial Services Committee to advance 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.

Sincerely,

The Responsible Business Lending Coalition

CC: The Honorable Nydia Velázquez
The Honorable Roger Marshall
The Honorable Bradley Schneider

###

Responsible Business Lending Coalition

The Responsible Business Lending Coalition (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. The coalition created the Small Business Borrowers' Bill of Rights, 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 and brokers have committed to uphold these rights, and over 50 advocacy and support organizations have endorsed them. For more information, visit www.borrowersbillofrights.org