



April 15, 2021

The Honorable Sherrod Brown
Chairman
U.S. Senate Committee on Banking, Housing
and Urban Affairs
Washington, D.C. 20510

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

The Honorable Patrick Toomey
Ranking Member
U.S. Senate Committee on Banking, Housing
and Urban Affairs
Washington, D.C. 20510

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

Re: The Small Business Lending Fairness Act

Dear Chairman Brown, Chairwoman Waters, Ranking Member Toomey, 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 the Small Business Lending Fairness Act, which would ban confessions of judgement in small business credit agreements, one of the most egregious predatory practices in small business financing.

The RBLC is the leading small business financial protection organization in the country. We are a network of nonprofit 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 RBLC 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, over 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.

Our coalition is authoring this letter because one of the key tenets of the Borrowers’ Bill of Rights is the Right to Fair Collection Practices, which includes a prohibition on confessions 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 legal 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. Some have argued that small businesses do not need protection from predatory lending practices, based on an assumption that business owners are more financially sophisticated than consumers. The reality is that small businesses are typically run by individuals and families with the same financial literacy capabilities as the average American household. Without legal counsel and Chief Financial Officers, small businesses need common sense protections from abusive and deceptive lending, just as consumers do.

Bloomberg's 2018 series, [‘Sign Here To Lose Everything.’](#) captures the deceit and devastation confessions of judgment have inflicted on small businesses. The practice continues to wreak havoc to this day, as small businesses are still waiting for Congress to act.

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 COVID-19 pandemic has further put the financial health of small businesses at risk, especially those in underserved and underbanked communities. In addition, [small businesses run by people of color and women were approved for Paycheck Protection Program loans at lower rates](#), leaving them vulnerable to sources of capital that may come with opaque and dangerous terms, including confessions of judgment. The Small Business Lending Fairness Act would address this issue by banning confessions of judgment nationwide.

The RBLC'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, employees and communities. In some cases, confessions of judgment cost faultless borrowers more than their businesses—borrowers 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. These responsible lenders maintain that the tool has caused too much harm to continue being available to lenders.

Confessions of judgment 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 encounter borrowers who take out 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 it as part of a broader congressional agenda to shield small firms from harmful financial products.

We urge the House Financial Services Committee and the Senate Banking, Housing and Urban Affairs Committee to advance this important legislation. The Small Business Lending Fairness Act will help ensure our nation’s job creators have access to the responsible lending they need to preserve their businesses during the pandemic and serve as engines of economic recovery after the crisis.

Sincerely,

The Responsible Business Lending Coalition



CC: The Honorable Nydia Velázquez
The Honorable Sherrod Brown
The Honorable Marco Rubio
The Honorable Bradley Schneider