

116TH CONGRESS 1ST SESSION

S. 1961

To amend the Truth in Lending Act to prohibit certain unfair credit practices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 25, 2019

Mr. Brown (for himself and Mr. Rubio) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Truth in Lending Act to prohibit certain unfair credit practices, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Small Business Lend-
- 5 ing Fairness Act".
- 6 SEC. 2. OBLIGOR TRANSACTIONS.
- 7 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
- 8 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
- 9 at the end the following:

"SEC. 140B. UNFAIR CREDIT PRACTICES.

2	"(a)	ΙN	General.—]	ln conn	ection	with	the e	xtension
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- 3 of credit or creation of debt in or affecting commerce, as
- 4 defined in section 4 of the Federal Trade Commission Act
- 5 (15 U.S.C. 44), including any advance of funds or sale
- 6 or assignment of future income or receivables that may
- 7 or may not be credit, no person may directly or indirectly
- 8 take or receive from another person an obligation that con-
- 9 stitutes or contains a cognovit or confession of judgment
- 10 (for purposes other than executory process in the State
- 11 of Louisiana), warrant of attorney, or other waiver of the
- 12 right to notice and the opportunity to be heard in the
- 13 event of suit or process thereon.
- 14 "(b) Exemption.—The exemption in section 104(1)
- 15 shall not apply to this section.".
- 16 (b) Technical and Conforming Amendments.—
- 17 (1) Section 103 of the Truth in Lending Act
- 18 (15 U.S.C. 1602) is amended by adding at the end
- the following:
- 20 "(ff) The term 'debt' means any obligation of a per-
- 21 son to pay to another person money—
- "(1) regardless of whether the obligation is ab-
- solute or contingent if the understanding between
- 24 the parties is that any part of the money shall be
- or may be returned;

"(2) that includes the right of the person pro-
viding the money to an equitable remedy for breach
of performance if the breach gives rise to a right to
payment; and

- "(3) regardless of whether the obligation or right to an equitable remedy described in paragraph (2) has been reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.".
- (2) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended by striking "creditor" each place the term appears and inserting "person".

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