

Ban on Predatory-Lending Tactic Passes House Finance Committee

By **Zeke Faux** | **Bloomberg**

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A House committee approved a bill to protect small businesses from predatory lenders who seize their assets without warning using a legal instrument called a confession of judgment.

The U.S. House Financial Services Committee voted Thursday 31 to 23 to advance the bill. The proposal, introduced by New York Democrat Nydia Velazquez and Roger Marshall, a Republican from Kansas, would ban confessions of judgment in business loans.

“These lenders have hijacked our courts by getting rubber-stamp judgments,” Velazquez said. “We can stop some of the abuses that are crippling honest small-business owners.” Republicans on the committee opposed the bill. Two of them proposed amendments that would have weakened it, but both were voted down by Democrats. The legislation will now move to the House floor. It still faces a long road to becoming law. Ohio Democrat Sherrod Brown and Florida Republican Marco Rubio introduced a similar bill in the Senate last year, but there’s no guarantee the Republican-controlled body will support the ban.

The law was drafted in response to Bloomberg News articles last year about abuses by unregulated companies offering a form of financing called a merchant cash advance that can cost as much as 400% annualized. Some require customers to sign confessions of judgment to get loans. By signing, borrowers forfeit their right to defend themselves in court.

Armed with a confession, lenders can accuse borrowers of not paying and legally seize their assets before they know what’s happened. The Bloomberg articles described lenders falsely accusing borrowers of missing payments and overstating how much was owed. In recent years, lenders have used confessions to win more than 32,000 judgments in New York courts, mostly against small out-of-state businesses. Warren Davidson, an Ohio Republican, proposed an amendment that would have allowed confessions of judgment but required disclosure to borrowers about what they were signing, saying he’d taken out a loan that included a confession-like clause himself. Velazquez said that wouldn’t help solve the problem. “People are so desperate to get a loan that they are willing to sign any disclosure without understanding what they’re signing for,” she said.

The bill is one of nine the House committee considered. The panel also advanced a measure that would change the requirements that mortgage lenders use to verify a

borrower's income and debt, as well as a handful of bills aimed at strengthening rules about debt collection.

Federal regulators banned the use of confessions of judgment for consumer loans in 1985. The proposed bill, called the Small Business Lending Fairness Act, would extend the ban to commercial transactions. In August, New York passed a bill that prohibits the use of confessions against individuals and businesses located out of state. But some other states, including Pennsylvania and California, still allow them.

--With assistance from Lydia Beyoud, Zachary R. Mider and Elizabeth Dexheimer.
To contact the reporter on this story: Zeke Faux in New York at zfaux@bloomberg.net
To contact the editors responsible for this story: Robert Friedman at rfriedman5@bloomberg.net, Joe Schneider
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