

116TH CONGRESS  
1ST SESSION

# S. 1961

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

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## 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

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## 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:

1 **“SEC. 140B. UNFAIR CREDIT PRACTICES.**

2       “(a) IN GENERAL.—In connection with the extension  
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  
19 the following:

20       “(ff) The term ‘debt’ means any obligation of a per-  
21 son to pay to another person money—

22               “(1) regardless of whether the obligation is ab-  
23 solute or contingent if the understanding between  
24 the parties is that any part of the money shall be  
25 or may be returned;

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

5           “(3) regardless of whether the obligation or  
6           right to an equitable remedy described in paragraph  
7           (2) has been reduced to judgment, fixed, contingent,  
8           matured, unmatured, disputed, undisputed, secured,  
9           or unsecured.”.

10           (2) Section 130(a) of the Truth in Lending Act  
11           (15 U.S.C. 1640) is amended by striking “creditor”  
12           each place the term appears and inserting “person”.

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