

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3490
OFFERED BY MS. VELÁZQUEZ OF NEW YORK AND
MR. MARSHALL OF KANSAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Small Business Lend-
3 ing Fairness Act”.

4 SEC. 2. OBLIGOR TRANSACTIONS.

5 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
6 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
7 at the end the following:

8 “SEC. 140B. UNFAIR CREDIT PRACTICES.

9 “(a) IN GENERAL.—In connection with the extension
10 of credit or creation of debt in or affecting commerce, as
11 defined in section 4 of the Federal Trade Commission Act
12 (15 U.S.C. 44), including any advance of funds or sale
13 or assignment of future income or receivables that may
14 or may not be credit, no person may directly or indirectly
15 take or receive from another person an obligation that con-
16 stitutes or contains a cognovit or confession of judgment
17 (for purposes other than executory process in the State

1 of Louisiana), warrant of attorney, or other waiver of the
2 right to notice and the opportunity to be heard in the
3 event of suit or process thereon.

4 “(b) EXEMPTION.—The exemption in section 104(1)
5 shall not apply to this section.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) Section 103 of the Truth in Lending Act
8 (15 U.S.C. 1602) is amended by adding at the end
9 the following:

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

12 “(1) regardless of whether such obligation is
13 absolute or contingent if the understanding between
14 the parties is that any part of the money shall be
15 or may be returned;

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

20 “(3) regardless of whether the obligation or
21 right to an equitable remedy described in paragraph
22 (2) has been reduced to judgment, fixed, contingent,
23 matured, unmatured, disputed, undisputed, secured,
24 or unsecured.”.

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

