

## H.R. 3490, Small Business Lending Fairness Act

As ordered reported by the House Committee on Financial Services on November 14, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Cannot Determine Costs

\* = between zero and \$500,000.

H.R. 3490 would prohibit creditors and debtors from entering into contracts that contain confessions of judgement, or similar legal mechanisms in which a debtor waives their right to mount a legal defense in the event of a breach of contract.

CBO assumes that the bill will be enacted in fiscal year 2020. Using information from the Consumer Financial Protection Bureau (CFPB), CBO estimates that it would cost the bureau less than \$500,000 to amend regulations to implement the bill. The CFPB has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve.

The bill contains private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO cannot determine whether the aggregate cost of the mandates would exceed the threshold established in UMRA (\$168 million in 2020, adjusted annually for inflation).

Although H.R. 3490 would prohibit creditors and debtors from using confessions of judgment and similar tools when extending credit or creating debt in commercial settings, the bill would not prohibit other litigation practices to collect outstanding debt. The cost of the mandate, then, would be the difference in debt collections using methods that would be prohibited under the bill compared to other litigation practices allowed under the bill.



The bill also would exempt private and public entities from civil liability in instances when consumer credit information has been disclosed, thus removing a private right of action. The cost of the mandate would be the foregone net value of awards and settlements that would have been granted for such claims in the absence of the bill.

CBO cannot estimate the number of claims or lawsuits that would have been successful in the absence of the bill, or the value of collections or court awards stemming from those claims that would be forgone. Therefore, we cannot determine the cost of the private-sector mandates in the bill.

H.R. 3490 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.