

Editorial Board

Here's One Way to Help Small Businesses Survive

Pass legislation to protect them from predatory lenders.

By Editorial Board

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Let them bake. *Photographer: Rodin Eckenroth/Getty Images*

The coronavirus pandemic has thrust millions of American small businesses into crisis mode, as they scramble for the cash they need to get through to more normal times. One way Congress can help: Protect them from predators looking to take their money and leave them bankrupt.

Bloomberg News has reported extensively on the “merchant cash advance” companies that prey on plumbers, pizzerias, nail salons and other small businesses across the country. They skirt lending laws by structuring their products as advances against future revenue. They employ bucket-shop marketing tactics, offering seemingly sweet deals that obscure outrageous fees and interest rates sometimes exceeding 400%. Their collection practices border on extortion,

ranging from draining bank accounts without business owners' knowledge to surprise visits from a guy named Gino.

Now, entrepreneurs are particularly vulnerable, as lockdowns slam the economy and federal aid fails to reach many of those most in need. As Federal Trade Commissioner Rohit Chopra put it, "this is opening the door to even more predatory actors looking to profit from the pain of small business owners."

After the Bloomberg News investigation, officials addressed some specific cases and practices. The FTC, the Securities and Exchange Commission and New York's attorney general sued a number of companies – run by people including a convicted real-estate scammer and a former drug trafficker – for transgressions ranging from threatening kidnapping to overcollecting on debts. And New York legislators shut down a legal loophole that allowed cash-advance companies to use the state's courts to seize the assets of small businesses nationwide, with no notice or hearing.

Yet the predatory behavior will keep coming back in new forms until Congress corrects a major omission: the lack of any consistent rules for lending to small businesses, akin to those that already exist for consumers. These should include clear disclosure of terms and interest rates, accountability for the brokers who sell the loans, and federal constraints on contracts that allow creditors to seize assets unilaterally. Legislators should also designate a federal agency to enforce the rules wherever they should apply.

Congresswoman Nydia M. Velázquez, the chairwoman of the House Small Business Committee, has introduced legislation that would do what's needed and put the Consumer Financial Protection Bureau in charge. Her colleagues across the aisle, who often express admiration for small business, should offer their support. Entrepreneurs should be able to focus on getting through this crisis and doing what they do best, not trying to anticipate the myriad ways in which unscrupulous lenders might deceive them and destroy what they've built.

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