

S6439 BRISPORT No Same as

ON FILE: 04/29/21 Civil Practice Law and Rules

TITLE....Repeals section 3218 of the civil practice law and rules relating to judgments by confession; repealer

04/28/21 REFERRED TO JUDICIARY

BRISPORT

Rpld §3218, CPLR

Relates to judgments by confession.

STATE OF NEW YORK

6439

2021-2022 Regular Sessions

IN SENATE

April 28, 2021

Introduced by Sen. BRISPORT -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to repeal section 3218 of the civil practice law and rules relating to judgments by confession

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 3218 of the civil practice law and rules is
- 2 REPEALED.
- 3 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11052-01-1

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S6439

SPONSOR: BRISPORT

TITLE OF BILL:

An act to repeal section 3218 of the civil practice law and rules relating to judgments by confession

SUMMARY OF PROVISIONS:

Section one of this bill repeals section 3218 of the civil practice law and rules.

Section two provides that this act shall take effect immediately.

JUSTIFICATION:

Creditors have long used the "confession of judgment" legal device to prey upon unsuspecting debtors in New York, demanding that less sophisticated persons or entities immediately relinquish important legal rights when they sign a promissory note or contract. Following the lead of other states that have precluded the use of such legal devices, and following upon some limited reforms that New York enacted in prior years, this legislation will end the use of the "confession of judgment" legal device once and for all.

Under the current statute, a "confession of judgment" is a written and signed statement, in the form of an affidavit, in which a debtor admits liability and agrees to pay the sum confessed as owed to the creditor pursuant to an agreement. When the debtor does not perform or pay according to the agreement, a so-called "confession" may then be filed as a judgment with the county clerk without commencing a legal proceeding against the debtor, and even if the debtor would otherwise have legitimate defenses that it could have asserted against a creditor or debt collector. In other words, a "confession of judgment" is a device that is used by creditors and debt collectors to immediately demand that a person waive important legal rights.

The use of "confessions of judgment" has very real and very serious consequences. In September 2019, the House Financial Services Committee convened for a hearing on predatory debt collection, and testimony from the New York Taxi Workers Alliance indicated that predatory lenders had been aggressively utilizing "confessions of judgment" to "intimidate borrowers into making large sum payments towards outstanding loan balances or rush into refinancing agreements with interest, even interest-only, provisions." According to testimony from a representative of the New York Taxi Workers Alliance, "confessions of judgment have basically meant that when the taxi medallion market started to fall, drivers were told that they had to pay up the total sum of what was owed on that debt, had to produce \$350,000, \$400,000 overnight." This is just

one of the devices that has been used to drive New York taxi drivers towards an epidemic of financial ruin and suicide.

Representatives from the Federal Trade Commission (FTC) have also criticized the use of "confessions of judgment," and suggested that a ban on the practice would be appropriate. FTC Commissioner Rohit Chopra testified that the FTC "should look to restrict terms like confessions of judgment that the FTC banned in consumer loans ages ago." Although the federal government has not yet acted to prohibit this practice nationwide, New York State can join other states in officially prohibiting the practice.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.