NCLC Advocates Applaud Schumer/Warren Senate Resolution Calling for $50,000 in Debt Cancellation for 43 Million Student Loan Borrowers

FOR IMMEDIATE RELEASE: September 17, 2020

National Consumer Law Center contacts: Jan Kruse (jkruse@nclc.org) or Persis Yu (pyu@nclc.org)

Boston – Today, Senators Schumer and Warren announced they are introducing a Resolution calling on the President of the United States to take executive action to broadly cancel up to $50,000 in federal student loan debt for 43 million Americans.

The following is a statement by Persis Yu, National Consumer Law Center attorney and director of NCLC’s Student Borrower Assistance Project:

“We join Senators Schumer and Warren in calling on President Trump to immediately cancel up to $50,000 in federal student loan debt for 43 million borrowers. The federal government must save borrowers from continuing to drown in student loan debt which is caused by a system that has been inequitable and broken for decades. Student loan debt disproportionately burdens Black and Brown Americans and exacerbates the racial wealth gap. Abusive debt collection practices take funds like the Earned Income Tax Credit from borrowers’ safety nets and garnish borrowers’ wages, making it even harder for the borrowers who need every penny to put food on their families’ tables and contribute to their local economies. Student debt cancellation is urgently needed now as American families are struggling to stay financially afloat through the global economic and public health crisis caused by COVID-19. Given how this action could improve millions of Americans’ participation in the economy, the government cannot afford to wait any longer.”

States Must Help Protect Vital Utility Service During the Ongoing COVID-19 Pandemic: Models from Three States

As the COVID-19 pandemic spread through the United States, with its accompanying economic shutdown, several states adopted a moratorium on terminations of utility service. However, in most states that adopted moratoriums, those termination prohibitions have already expired or will within the next few months. Legislators and utility regulators must act now to extend these moratoriums and require more flexible and generous bill payment practices to ensure continued access to essential utility service. Even before the hardships due to COVID-19, about one-third of the U.S. population was already facing serious difficulty in paying utility bills. The COVID pandemic has
exacerbated the problem, with essential utility service today even more unaffordable for millions of utility customers.

The COVID-19 crisis has highlighted that access to utility service is essential to maintain public health and safety. Access to utility service should not be forfeited because of a person’s inability to afford that service. Policymakers should seize on the current pandemic as an opportunity to create permanent consumer-oriented policies that ensure access to vital utility service for all.

Recently, utility commissions in California, Illinois, and Massachusetts took significant steps to help consumers stay connected to utility service. In each of these states, state regulators acted proactively, while utility shut-off moratoria were in place, to enact consumer protections with the goal of ensuring continued access to essential utility service for vulnerable populations. Each offers model provisions for regulators to enact in their states. This blog post summaries the orders.

**California**

On June 11, 2020, the California Public Utility Commission (CPUC) adopted a Phase I decision (D.20-06-003) in CPUC Rulemaking 18-07-005, the so-called “disconnection docket.” The Phase I decision provides a suite of pro-consumer credit and collection rules and practices for the four large electric and gas companies to reduce residential disconnection rates for nonpayment. The proceeding followed the passage of California Senate Bill 598 (SB 598), which requires the CPUC to reduce utility disconnection rates by January 1, 2024.

Previously, in April, the CPUC had extended the shut-off moratorium until April 16, 2021, through its approval of Resolution M-4842.

The Phase I Decision makes permanent, with some modifications, interim rules that were previously adopted in D. 18-12-013, and which

- Sets caps on the disconnection rate of the four large investor-owned utilities (IOUs).
- Protects medical baseline (seriously ill) customers from disconnection for nonpayment as long as they agree to a 12-month payment plan.
- Protects low-income customers from disconnection for nonpayment until the utility offers to enroll eligible customers in all applicable benefit programs administered by the utility.
- Requires the utility to offer customers a 12-month payment plan before disconnecting for non-payment.
- Prohibits disconnections for non-payment during extreme weather (temperatures above 100 degrees or below 32 degrees).

In addition, the Phase I decision:

- Eliminates service deposits and reconnection fees.
- Creates arrearage management programs (AMPs) for the four IOUs.
- Creates Percentage of Income Payment Plan (PIPP) pilots for the 10 California zip codes with the highest disconnection rates.
- Establishes a CPUC Enforcement Branch citation program designed to ensure compliance with the rules outlined in the decision.

**Illinois**

On June 18, 2020, the Illinois Commerce Commission (ICC) approved a settlement reached among the state’s investor-owned utilities, consumer advocates, and the Commission’s Staff. The
settlement in ICC Docket No. 20-0309 provides financially struggling customers with several protections designed to minimize disconnection of essential utility service and make bills more affordable.

The Order followed the ICC’s issuance of an Emergency Interim Order on March 18, 2020 that required a moratorium on investor-owned utility shut offs, suspended late fees and penalties due to a customer’s inability to pay, and further required the investor-owned utilities to file more flexible credit and collections procedures for the Commission’s consideration and approval.

The agreement, as approved by the Commission, includes the following:

- Reconnection of customers previously disconnected customers, and waiver of the usual reconnection fees.
- Extension of the moratorium on disconnections through late summer of 2020.
- Debt forgiveness for LIHEAP-eligible customers totaling $48 million. A typical forgiveness, for example, totals $500 per utility for Chicago customers.
- Provision of 24-month deferred payment arrangements (DPAs), with no down payments, for customers claiming financial hardship, and DPAs of 18 months for residential customers who do not claim financial hardship.
- Self-certification of financial hardship, which then allows access to expanded customer protections.
- Reporting of disconnections, late fees, DPAs, deposits and other data by zip code, to ensure that regulators and consumer advocates can monitor disconnection and other credit and collection practices for disproportionate impacts in communities of color.
- Utility agreement to engage, with stakeholders, in a discussion on how to improve the affordability of utility service for low income customers.

Massachusetts

The Massachusetts Department of Public Utilities (DPU) opened an investigation in May, Docket No. 20-58, to solicit input from stakeholders about the need for post-moratorium policies to protect struggling consumers, as well as recommendations for utility cost recovery. The DPU invited the utility companies, the Attorney General, the Department of Energy Resources, NCLC, the Low-Income Energy Affordability Network, and others to participate. On July 31, 2020, the DPU issued an order which includes the following protections for residential customers:

- Extends the residential disconnection moratorium until November 15. On that date, the winter moratorium on shut-offs for low-income Massachusetts customers kicks in and continues through March 15, 2021.
- Extends the length of payment plans for twelve months, with the possibility of 18 months for “unique circumstances.”
- Expands the Arrearage Management Program (AMP), by allowing repeat enrollments, increasing the amount of arrearages that are forgiven, and allowing applicants to initially self-certify their income eligibility.

For additional details about the orders in these three states, see NCLC’s new issue brief.
2020 Speakers

Consumer Rights Litigation Conference Info Page

- Ron Akasaka, SMART ADR
- John Albanese, Berger Montague
- Amanda Allen, The Consumer Protection Firm
Jennie Anderson, *Andrus Anderson*

Susan Apel, *Office of PA Attorney General*

Leslie Bailey, CA *Public Justice*

Lauren Barnes, *Hagens Berman Sobol Shapiro*

John Barrett, *Bailey Glasser*

Jerry Battle, *NCLC*
Laura Bazelon, Law Professor USF

Suzanne Begnoche, Attorney

Lorraine Bellamy Martinez, CT Fair Housing Center

Len Bennett, Consumer Litigation Associates

Andrea Bopp Stark, NCLC
• Jen Bosco, NCLC

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• Bernard Brown, Attorney at Law

• Ron Burdge, Burdge Wells Law Office

• Carolyn Carter, NCLC
- Peter G. Cary, Chief Judge US Bankruptcy Ct.

- Carolyn Coffey, Mobilization for Justice

- Alys Cohen, NCLC

- Hannah Cole-Chu, Outten & Golden

- Elliot Conn, Conn Law PC
• Deborah Cuevas Hill, Legal Counsel for the Elderly

• Denis Culley, Legal Services for the Elderly

• Joanna Darcus, NCLC

• Tom Domonoske, Consumer Litigation Associates

• Michelle Drake, Berger Montague
Eric Dunn, National Housing Law Project

Richard Feferman, Feferman, Warren & Mattison

Carrie Floyd, Lake Shore Legal Aid

Berbeth Foster, Coast to Coast Legal Aid

Judy Fox, Notre Dame Law Professor
- Jim Francis, Francis Mailman Soumilas
- Nikolai Frant, Colorado Department of Law
- Seth Frotman, Student Borrower Protection Center
- Jeff Gentes, CT Fair Housing Center
- Gina Chiala, Heartland Center for Jobs and Freedom
Gary Goldberg, Terry Garmey and Associates

Glenna Goldis, NYC Department of Consumer and Worker Protection

Alexis Goldstein, Americans for Financial Reform

Jamie Gullen, Community Legal Services of Philadelphia

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• Ashley Harrington, Center for Responsible Lending

• Stephen Hayes, Relman Colfax

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• Justine Holcombe, Skaar & Feagle
• Dave Humphreys, Humphreys Wallace Humphreys

• Heather Jarvis, Student Loan Expert LLC

• Dalie Jimenez, Law Professor UCI

• Kim Johnson, National Low Income Housing Coalition

• Justine Joya, Frudden & Padilla
• Maya Jumper, Outten & Golden

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• Alysson Snow, *Legal Aid Society of San Diego*
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- Tim Sostrin, Keogh Law
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• John Van Alst, NCLC
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- Geoff Walsh, NCLC
- Leah Watson, ACLU
- Olivia Wein, NCLC
- Judy Whiting, Community Service Society of NY
- Ron Wilcox, Wilcox Law Firm
- Odette Williamson, NCLC
- Chi Chi Wu, NCLC
- Persis Yu, NCLC
HUD Guts Civil Rights Rule Used to Address Systemic Discrimination in the Housing Market on the Dawn of an Eviction and Foreclosure Crisis

FOR IMMEDIATE RELEASE: September 8, 2020
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National Consumer Law Center Advocates Urge HUD to Reverse Course and Restore Key Civil Rights Protections

Washington, D.C. – In a continuing campaign to weaken civil rights protections, the U.S. Department of Housing and Urban Development (HUD) announced a new rule that would gut key protections under the Fair Housing Act (FHA). The Act’s disparate impact standard has been used for nearly 50 years to challenge the systemic discrimination that pervades housing, lending, insurance, and other financial institutions. The gutting of this rule comes on the heels of attempts to destroy other important requirements under the FHA. National Consumer Law Center advocates call on HUD to immediately rescind the new rule and restore key civil rights protections.

“The communities that were redlined in the past are the same communities suffering the brunt of the fallout from the COVID-19 pandemic, and are the same communities that will suffer from HUD destroying this rule.” said Odette Williamson, National Consumer Law Center attorney and director of NCLC’s Racial Justice and Equal Economic Opportunity project. “At a time when ordinary people are calling for racial justice, the very tools that were put in place decades ago to address toxic discrimination are being stripped away by the federal government. The people deserve better.”

Disparate impact claims under the Fair Housing Act protect consumers against lending policies and other types of practices that appear neutral on their face but in practice unfairly harm certain groups of people. The rule has been used effectively for five decades to challenge housing discrimination, segregation, and the lending policies that strip wealth from communities of color.

The new regulations would make it harder to prove housing discrimination cases. Rather than allowing victims of alleged discrimination use statistical evidence to show that a developer or lender has policies that have a disparate impact on minorities — a right confirmed by the U.S. Supreme Court — HUD arbitrarily and without any legitimate justification has created enforcement hurdles that do not appear in the FHA that would require such plaintiffs to prove that the policies in question are “arbitrary, artificial, and unnecessary.”

At a time when Black homeownership is at levels not seen since the 1960s, prior to the enactment of the FHA, HUD has inexplicably chosen to promulgate a rule that would make things worse. Now is the time to strengthen civil rights protections to provide all people with a fair opportunity to become homeowners or remain in their home if they suffer a hardship.
Consumer & Civil Rights Advocates to OCC: Your Proposed “True Lender” Rule Would Help Fraudulent, Predatory Lenders Evade State Interest Rate Laws that Protect Families

FOR IMMEDIATE RELEASE: September 3, 2020

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The timing of the OCC’s embrace of predatory lenders could not be worse

We are in the midst of an unprecedented health crisis and a severe economic crisis, with both crises impacting communities of color more heavily than white communities

WASHINGTON, D.C. – A proposal by the regulator of the nation’s largest banks would allow predatory lenders to do an end-run around state interest rate caps, exposing people to high-cost loans with minimal consumer protections, according to a comment letter submitted today to the Office of the Comptroller of the Currency (OCC) by 13 national consumer and civil rights groups. Most of these groups also joined a shorter comment letter submitted today by more than 100 community based organizations across the country.

The Center for Responsible Lending, National Consumer Law Center (on behalf of its low income clients), Americans for Financial Reform Education Fund, Consumer Action, Consumer Federation of America, the Leadership Conference on Civil and Human Rights, NAACP, National Association of Consumer Advocates, National Association for Latino Community Asset Builders, National Coalition for Asian Pacific American Community Development (National CAPACD), Public Citizen, UnidosUS, and U.S. PIRG strongly oppose the OCC’s “true lender” rule.

The proposed rule would facilitate fraudulent predatory “rent-a-bank” schemes where a non-bank lender launders a loan through a bank (which is not subject to state rate caps) in order to charge interest rates beyond what state law allows.

The OCC’s proposal provides that a bank “makes” the loan and thus is the lender — so that state interest rate laws do not apply — so long as the bank’s name is on the loan agreement or the bank funds the loan. This rule would prohibit courts from looking behind the fine print form to the truth about which party is running the loan program and is the “true lender.” The head of the agency has
said that he intends for this rule to shelter rent-a-bank arrangements from litigation. Just days before the speech, the District of Columbia (D.C.) attorney general sued a high-rate rent-a-bank lender, Elevate, for violating state rate caps; and California just launched an investigation into LoanMart, another rent-a-bank lender. Currently, 45 states and D.C. have interest rate caps on at least some installment loans to protect residents from high-cost predatory lending.

The groups urged the OCC to abandon its proposal in its comment letter to the OCC:

“The proposal would eliminate state interest rate limits for nonbank predatory lenders in every state as long as a bank’s name is in the fine print – nothing more – taking us back to the days of the early 2000s when payday lenders used rent-a-bank schemes to evade state laws. States would lose the power they have had since the time of the American Revolution to limit interest rates to prevent predatory lending. …

“The OCC is asking us to trust that it will not allow predatory lending. But when the OCC is going out of its way to support the right of a predatory small business lender to charge 120% APR, and is doing nothing to stop a payday lender from using an OCC-regulated bank to launder 179% APR installment loans, a naïve trust is no substitute for state interest rate limits. …

“The timing of the OCC’s embrace of predatory lenders could not be worse. We are in the midst of an unprecedented health crisis and a severe economic crisis. We are, at the same time, at a pivotal moment in our nation’s reckoning with its history of structural racism. It is difficult to imagine a more inappropriate time to disrupt longstanding safeguards in place since the founding of this country that have played a fundamental role in protecting consumers from predatory financial practices.”

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**FHFA’s Delay of Fannie & Freddie Mortgage Refinancing Fee is a Necessary Yet Utterly Insufficient Step for Struggling Homeowners**

Washington, D.C. - The Federal Housing Finance Agency (FHFA) announced yesterday that a fee from Fannie Mae and Freddie Mac, which FHFA previously approved and which makes refinancing more expensive for mortgages backed by those companies, will be delayed until December 1. FHFA also said the fee will not apply to refinance loans with balances below $125,000. The fee is 0.5 percent and would add an additional cost of $1,400 to the average mortgage loan. Fannie and Freddie provide financial backing for around half of all U.S. mortgages and are Government Sponsored Enterprises (GSEs).

Today, the Center for Responsible Lending along with the National Fair Housing Alliance, National Consumer Law Center (on behalf of its low-income clients), and Consumer Federation of America said FHFA’s delay and narrowing of the fee, but the agency must completely eliminate the fee and take additional steps to ensure low- to moderate-income and lower-wealth mortgage borrowers can refinance, so that they can more easily afford their mortgage.

“FHFA took a step toward addressing concern over the refinancing fee, but more needs to be done
to ensure lower-wealth families can obtain needed relief through refinancing. Lower-wealth homeowners, disproportionately people of color, are most negatively impacted by COVID-19, leading them to struggle financially during this period of both health and economic crises. These hard-working families should be able to refinance at the historically low interest rates to save money on their mortgage - just as higher-wealth homeowners are doing,” said Nikitra Bailey, Executive Vice President at the Center for Responsible Lending. “The GSEs should not increase fees in a crisis. This entire episode demonstrates yet again why the GSEs should be regulated as utilities to fulfill their public mission and responsibility.”

Bailey added, “Recovery from the Great Recession was uneven with most of the support from the Home Affordable Refinance Program (HARP) going to wealthier households. We must learn from the past to ensure a just recovery that does not leave Black and Brown communities behind. The SBA Paycheck Protection Program has already failed to be distributed equitably. Another form of large-scale government support cannot be permitted to do the same.”

Lisa Rice, President at the National Fair Housing Alliance said, “Because of the GSEs’ Loan Level Pricing Adjustments (LLPAs) – a crude matrix for measuring risk – borrowers of color are already disproportionately steered to FHA loan products, severely limiting their mortgage credit options. The proposed added fee only exacerbates this systematic barrier to credit access for consumers of color. FHFA should be implementing policies that minimize lending steering not working to decrease opportunities for underserved borrowers. This added fee also diminishes the GSEs’ ability to fulfill their charter and mission requirement to ‘promote access to mortgage credit’ for ‘central cities, rural areas, and underserved areas.’ The National Fair Housing Alliance calls on the Federal Housing Finance Agency to abandon its proposal to implement the mortgage refinancing fee.”

Alys Cohen, Staff Attorney in the National Consumer Law Center’s Washington Office, stated, “Many homeowners, especially in Black and Latinx communities, are finding it hard to meet their financial obligations right now as the nation faces the health and economic consequences of the pandemic. The option to affordably refinance without additional fees would allow homeowners to more easily pay other bills and better use their often-limited financial resources. Government-backed mortgage refinancings should be made widely available during these unprecedented times and should not play a role in further exacerbating racial inequality.”

Mitria Wilson, Director of Housing Policy at the Consumer Federation of America, noted, “As the nation continues to navigate the COVID-19 pandemic and its corresponding economic challenges, now is not the time to needlessly increase the costs of refinance products for consumers. FHFA’s decision to delay implementation of the refinance fee is important, but still not enough. Ultimately, the FHFA should reconsider and reverse its decision requiring the GSEs to assess the fee in the first place.”

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- Medical Debt Primer
- Basic Intro on How to Stop Robocalls
- COVID-19 Mortgages: Post Forbearance for Fannie & Freddie Loans

**Beginner Session Spotlight**

- Investigation in Auto Cases
- Common Fair Debt Collections Practices Act Claims
- Consumer & Economic Civil Legal Issues for Survivors of Domestic Violence
- Your Client is Being Sued on a Debt: What Now? A Primer on Defeating Debt Collection Lawsuits
"A lot of people are alive today because of the basic rules of the road NCLC and others have fought for. But there are still too many places where the world remains complicated and opaque. There are still too many places where armies of lobbyists are fighting to rig the system so that the public remains in the dark...I know there will be many battles ahead, and I look forward to standing shoulder to shoulder once again with NCLC.” U.S. Senator Elizabeth Warren

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CFPB Issues Proposal to Permit Mortgage Lenders to Make Unaffordable Loans Without Consequences

FOR IMMEDIATE RELEASE: August 18, 2020
National Consumer Law Center contacts: Jan Kruse (jkruse@nclc.org) or Alys Cohen (acohen@nclc.org)

National Consumer Law Center Statement: Proposal May be Challenged

Washington, D.C. – Today, the Consumer Financial Protection Bureau (CFPB) announced a Notice of Proposed Rulemaking regarding the Dodd-Frank Act ability to repay and qualified mortgage rules.

The following statement is by National Consumer Law Center Staff Attorney Alys Cohen:

“The Consumer Financial Protection Bureau announced a proposed rule that would shield lenders from legal liability for making mortgage loans without regard to borrowers’ ability to repay so long as the borrower remained current for the first three years of the loan and the loan meets other requirements. This action flies in the face of the Dodd-Frank Act, which requires lenders to make a good faith determination of a borrower’s ability to repay and allows borrowers to defend a threatened foreclosure at any time by asserting that the lender ignored the borrower’s lack of ability to repay in making the loan.

“There are many reasons a homeowner can make payments for several years even when a mortgage is unaffordable to them, including payments from roommates who are not on the mortgage,
borrowing money, or even going without essentials such utilities or medical care. These homeowners should not be precluded from using Dodd-Frank’s protections to save their homes, especially since the Ability-to-Repay rule contemplated this scenario already and allowed for it.

“The Dodd-Frank Act’s Ability-to-Repay rule was created to prevent the market excesses that led to the Great Recession, a calamity from which many communities, especially low-income neighborhoods and communities of color, still have not recovered.

“The CFPB’s proposal puts low-income neighborhoods and communities of color at greater risk at a time when they are facing increased challenges due to the COVID-19 pandemic. The proposal ignores the most basic lessons of the Great Recession and clear Congressional intent, and seeks to protect lenders from basic accountability to those homeowners who may have received unaffordable loans. Because the proposed rule directly conflicts with the underlying law, the proposal may be ripe for a challenge under the Administrative Procedure Act.”

Help 12 Million People Get Their Stimulus Payment

Spread the Word! Deadlines Approaching for Unclaimed Stimulus Payments

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided economic impact payments to individuals up to $1,200 and $500 for each qualified child to help dampen the impact of the economic fallout of COVID-19. Most people have already received their payments.
But about **12 million people** who make so little they do not file taxes have not claimed their payments, and they have an **October 15** deadline to do so in order to receive the payments in 2020. This group includes very low-income families with children, people disconnected from work opportunities for a long period, and many low-income adult-only households. A simple IRS form they may not know about now stands between them and their much-needed stimulus funds.

Additionally, the IRS is **extending to September 30, 2020** the deadline for recipients of Social Security, federal disability benefits, and other benefits – who have already received their individual payment – to apply for **an additional $500 for each qualifying child**.

**Help spread the word about the September 30 and October 15, 2020 deadlines for non-filers to complete the IRS form to receive their full Economic Impact Payment.**

The Center on Budget and Policy Priorities (CBPP) **estimates** there are 12 million people who are eligible for Economic Impact Payments (EIP) but must file an online form with the IRS by October 15 to claim the funds this year. Otherwise, they must file a 2020 tax return next year to receive the payment in 2021. The CBPP report provides **demographic information, state by state numbers**, and suggestions for steps that states, as well as community and legal service providers, can take to help the most vulnerable individuals claim the substantial economic stimulus payment.

In addition, Social Security, Supplemental Security Income (SSI), Department of Veterans Affairs and Railroad Retirement Board beneficiaries who do not file tax returns already automatically received their individual stimulus payments, but those automatic payments did not include funds for qualifying children. If these beneficiaries have not already used the “**Non-Filers tool**,” they must do so by September 15 to receive an additional $500 per qualifying child.

The best way to claim both types of payments is to use the Non-Filers: Enter Payment Info Here link on the IRS website. But it is also possible to print and mail the information. Instructions on how to do so are on the IRS **Economic Impact Payment Information Center** in the answers to the questions. “Can I print information to register me for the Payment if I use the Non-Filers: Enter Payment Info Here tool?” and “May I mail Form 1040 or Form 1040-SR with information Necessary for my Payment instead of using the Non-Filers: Enter Payment Info Here tool?”

**Resources**

Questions about stimulus payments are on the IRS website in the **Economic Impact Payment Information Center**. CBPP has **resources** to support EIP outreach work, including flyers, press release templates, FAQs, and additional outreach tools. Please also spread the word that people who received an **EIP prepaid card** should activate it or **replace it** to receive their money.

**More information**

- **IRS takes new steps to ensure people with children receive $500 Economic Impact Payments**
- Center for Budget and Policy Priorities: [Stimulus Payments Outreach Resources](https://www.cbpp.org/articles/2020/8/7/aggressive-state-outreach-can-help-reach-12-million-non-filers-eligible-stimulus-payment)
- **NCLC: IRS Sending Letters About Unactivated Stimulus Prepaid Cards**
- **NCLC: The EIP Stimulus Payment Prepaid Card: Not a Scam; How to Avoid Fees (sample card and mailer)**
CFPB Proposal Allows Abusive “Zombie” Debt Collection to Continue

FOR IMMEDIATE RELEASE: AUGUST 4, 2020

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Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) should withdraw its supplemental proposed rule on disclosures and instead completely ban all collection of time-barred “zombie” debt, both in and out of court, wrote the National Consumer Law Center (NCLC) in comments submitted today on behalf of its low income clients.

“The CFPB’s own testing shows that many people will not understand these disclosures. The proposed rules will only give cover for abusive collectors who use high-pressure collection tactics that harm consumers.” said National Consumer Law Center attorney April Kuehnhoff.

“Disclosures will not protect vulnerable consumers, who will not understand why they are being contacted about a debt that is too old to sue on, or how making a small payment or acknowledgement could end up reviving the statute of limitations on a debt.”

If the CFPB does not prohibit all collection of “zombie” debt, NCLC explained that the Bureau should completely revamp the proposed disclosures and conduct additional testing and analysis to ensure that real consumers—particularly those who are least sophisticated—will understand the consequences of making or not making a payment on a time-barred debt. The CFPB should also prohibit suits and threats of suits on revived debts, limit collections of time-barred debts to only written communications, and require a time-barred debt disclosure in every communication. These and other needed reforms must be adopted if the CFPB does not prohibit all collection of time-barred debt.

The CFPB should also analyze comprehension of any proposed disclosures by members of communities of color. Debt collection disproportionately affects communities of color. According to the Urban Institute, residents of predominantly nonwhite communities (42%) are far more likely to have debts in collection compared to residents in predominantly white areas (26%). Additionally, the CFPB should require debt collectors to provide the time-barred debt disclosure in Spanish whenever the collector has communicated with the consumer in Spanish or has notice that the consumer prefers to communicate in Spanish. The same requirement should apply to other languages as soon as the Bureau has created model translations of the time-barred debt disclosure in those languages.

NCLC also noted that problems with the CFPB’s original proposed debt collection rule from May 2019 will mean that many consumers will never even receive the proposed time-barred debt disclosures. As NCLC summarized, the CFPB’s May 2019 proposal would allow debt collectors to circumvent federal law regarding consent for electronic communications to send critical information via a hyperlink in an email or text. Such a notice may go to an old email address or phone number,
or the consumer might not open it or click on a link in a message from an unknown party due to concerns about computer viruses. As a result, the consumer may never receive that notice or the time-barred debt disclosure that it may contain.

Related NCLC Resources

**Brief:** [Time Barred Debt Disclosures in CFPB’s Supplemental Rulemaking Fall Short](https://www.nclc.org/membershipcenter/shorts/939), May 2020

**Fact Sheet:** [Racial Disparities in Consumer Debt Collection](https://www.nclc.org/membershipcenter/shorts/939)