



National
Consumer Law
Center
*Fighting Together
for Economic Justice*

<http://bit.ly/rpt-no-fresh-start>

NO FRESH START 2020

WILL STATES LET DEBT COLLECTORS PUSH FAMILIES INTO POVERTY IN THE WAKE OF A PANDEMIC?

RECOMMENDATIONS

What States Can Do to Protect Family Finances

States have good reason to be concerned about protecting their residents from over-aggressive collection of judgments for consumer debts. The growing wealth gap, the high volume of collection lawsuits filed around the country,¹ and the effects of the COVID-19 pandemic strain families to the breaking point and will make them increasingly vulnerable to seizure of essential wages and property.

State exemption laws should:

- **Preserve the debtor's ability to work**, by protecting a working car, work tools and equipment, and money for commuting and other daily work expenses.
- **Protect the family's housing, necessary household goods, and means of transportation.**
- **Protect a living wage for working debtors**—a wage that can meet basic needs and maintain a safe, decent standard of living within the community.
- **Protect a reasonable amount of money on deposit** so that debtors can pay commuting costs and upcoming bills such as rent, daycare, and utility bills.
- **Protect retirees from destitution** by restricting creditors' ability to seize retirement funds.
- **Be automatically updated for inflation.**
- **Close loopholes that enable some lenders to evade exemption laws.** For example, in states that allow payday lending, these high-cost lenders take wages and exempt benefits directly out of consumers' bank accounts, evading state laws that protect this income. States that allow lenders to take household goods as collateral enable these lenders to avoid state protections of household goods.
- **Be self-enforcing to the extent possible**, so that the debtor does not have to file complicated papers or attend court hearings.

Model language for states to achieve these goals is provided in the National Consumer Law Center's [Model Family Financial Protection Act](#). By updating their exemption laws, states can prevent debt buyers from reducing families to poverty. These protections also benefit society at large, by keeping workers in the work force, helping

¹ National Consumer Law Center, *Fair Debt Collection* § 1.4.9.1 (9th ed. 2018).

families stay together, reducing the demand on funds for unemployment compensation and social services, and keeping money in local communities where it will aid economic recovery.

What Congress Can Do

This report has focused on state laws, because states are the primary source of protections for debtors. But the federal government has an important role, too.

Since 1968, when the Consumer Credit Protection Act was passed, a federal law has placed a limit on how much a debt collector can take from a worker's wages.² This limit is shockingly low—for a full-time minimum wage worker it protects just \$217.50, not even half the poverty level for a family of four. (Fortunately, the federal law allows states to protect more of a worker's wages, and, as detailed earlier in this report, more than two-thirds of the states have done so). Another significant flaw in the federal law is that it provides no protection for wages after they are deposited in the worker's bank account, even if they are direct-deposited. Thus, even that \$217.50 could be seized from a bank account.

It is time for Congress to improve this basic protection. Congress should:

- **Increase the federal protection against wage garnishment** in order to protect a living wage.
- **Enact a self-executing bank account garnishment protection** sufficient to protect several months of a family's expenses.

Congress also writes the nation's bankruptcy laws, and controls how the government collects its own debts. Congress should also:

- **Restore the viability of bankruptcy as a fresh start** by simplifying the bankruptcy process, increasing asset and homestead protections, and giving student loan borrowers and those struggling with unaffordable criminal justice fines and fees the same fresh start opportunity as others.
- Instruct the federal government to **stop seizing federal safety net payments**, including the Earned Income Tax Credit, the Child Tax Credit, VA Benefits and Social Security benefits to repay government debts.

²15 U.S.C. §§ 1673.