

April 21, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
S-230, U.S. Capitol
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
S-220, U.S. Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, U.S. Capitol
Washington, D.C. 20510

Dear Speaker Pelosi and Leader McConnell,

The undersigned consumer and banking industry organizations write to urge Congress at the soonest possible opportunity to clarify that economic impact payments responding to this public health emergency are exempt from otherwise legally binding garnishment orders. Our organizations have worked together to address this issue and we believe that is possible to protect American families in a manner that is also workable for financial institutions.

Congress passed the CARES Act to help families purchase food and other necessities to make ends meet. Many people were already struggling prior to the coronavirus crisis and millions have now been laid off or had their hours cut. The intense demand for the emergency unemployment benefits that Congress authorized has overwhelmed state unemployment agencies and has led to delays in people receiving those benefits, especially for self-employed or 1099 workers who do not fit within previous unemployment application procedures. This makes quick access to the economic impact payments all the more essential.

Under the CARES Act, Congress exempted these payments from offset for debts owed to federal and state agencies, except in the case of child support, but did not address court-ordered garnishments to pay creditors. While financial institutions and even many debt collectors and debt buyers believe that the payments should be exempt from garnishment orders, some creditors have continued to attempt to garnish and freeze bank accounts. Banks are obligated to comply with garnishment orders unless lifted by a court. Yet many consumers do not know that they may have a legal defense to those orders under state exemption laws or for other reasons, and the crisis has also made it difficult to impossible to access attorneys or the courts – presenting due process issues. The lack of clear, self-executing protection for the stimulus payments imposes a significant burden for some families facing unprecedented circumstances.

While the IRS has already sent a significant number of the payments, it is not too late to act. Many of the payments yet to be sent will go to the lowest income individuals who do not file tax returns. We believe it is imperative that Congress make it clear that these payments are treated as benefits subject to the federal exemption from garnishment. Consumers may also have avenues for protecting payments sent to accounts where garnishment orders are still pending or have not yet been served.

Clarifying the exempt treatment of the stimulus payments will give consumers the confidence to provide their direct deposit information to the IRS, minimizing the distribution of paper checks. Direct deposit payments can be coded to contain an exemption identifier, enabling banks to protect the payments under existing systems. With checks, we note that there are significant operational challenges that make it more difficult for depository institutions to identify paper economic impact payments in order to automatically exempt them from garnishment. Nevertheless, allowing financial institutions to respond to customer requests to exempt such payments from garnishment and to comply with state orders will greatly assist in efforts to protect the payments from garnishment.

Unless Congress takes action to provide legal certainty, the families that most need this money – those who are struggling with debt and whose entire bank accounts may have been frozen by garnishment orders – will be not be able to access the funds. We urge Congress to provide this certainty to ensure that American families are receiving these benefits as intended to fulfill our common goal of protecting these payments from garnishment within the practical realities of existing financial institution systems.

Thank you for your efforts to protect American families during this emergency.

American Bankers Association
Americans for Financial Reform
Bank Policy Institute
Center for Responsible Lending
Consumer Action
Consumer Bankers Association
Consumer Federation of America
Consumer Reports
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
The Clearing House
U.S. PIRG