

Helping Those Harmed Financially by COVID-19

Policy & Practice: An Overview



National
Consumer Law
Center
*Fighting Together
for Economic Justice*

Michael Best

Andrea Bopp Stark



Webinar Roadmap

Eight Issue Areas

1. Auto Finance
2. Credit Reporting
3. Criminal Justice Debt
4. Debt Collection
5. Medical Debt
6. Mortgage Relief
7. Garnishment of Stimulus
8. Utility Services

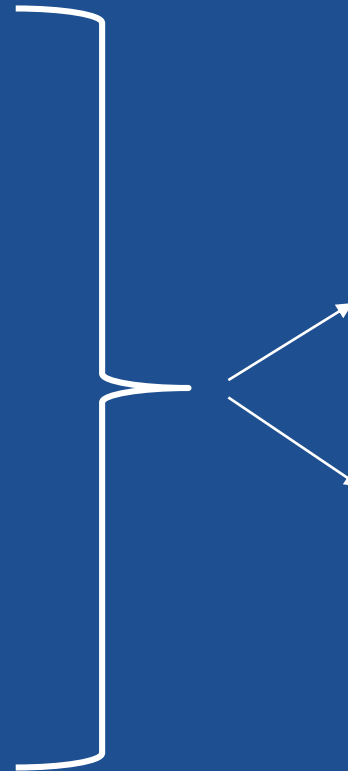
Two Lenses

Policy

What States Should Do. Policy options to push to decision makers in your state.

Practice

What you can do to help clients facing challenges now.





What States Should Do



10,000 Ft. Policy Overview in eight issue areas



Contact for NCLC Expert on Each Slide



What states have done



Action Items at end of Policy slides



Roadmap of policy two-pagers

<https://bit.ly/brief-stabilize-consumer-finance-covid-19>



Auto Finance

Frame: A family car can allow for social distancing, drive-through testing, and shopping without taking public transportation. After the initial crisis, a car will once again be vital in many communities for access to employment, day care, schooling, medical care, and other services. Yet **cars can be repossessed immediately after one missed payment** with little to no oversight in most states.

Policy Priorities Include: Clear consistent policies that prohibit repossessions, late fees, or interest on unpaid interest and that require lenders to offer forbearances for those unable to pay car loans are needed.

Link to Specific 2-Pager: <https://bit.ly/brief-covid-19-autos>

NCLC Issue Contact: John W. Van Alst @ jvanalst@nclc.org



Credit Reporting

Frame: The crisis will damage the credit reports of tens of millions of consumers, and lower credit scores will impede their ability to get affordable credit, jobs, and housing. The federal response to this looming credit reporting calamity has been weak, and states must step in to help their residents.

Policy Priorities Include: Allowing consumers to place “COVID-19 alerts” on their credit reports and states should not allow lenders, employers, landlords, or credit scoring models to take COVID-19 related information into account.

Link to Specific 2-Pager: <http://bit.ly/brief-covid-19-state-credit-reporting>

NCLC Issue Contact: Chi Chi Wu @ cwu@nclc.org



Criminal Justice Debt

Frame: Criminal justice debt is disproportionately borne by low-wage workers and people of color — populations especially vulnerable to financial devastation caused by the pandemic. Many will lose jobs and be unable to pay criminal justice debts through no fault of their own. States must act so that inability to pay does not trap families in poverty or entangle them in the criminal system — especially at a time when outbreaks are spreading through jails and law enforcement.

Policy Priorities Include: Suspending fines, fees, and criminal justice debt collection and enforcement; releasing anyone in jail or prison for nonpayment or nonappearance at a debt-related hearing; and ensuring that additional debts are not imposed on people during the crisis.

Link to Specific 2-Pager: <http://bit.ly/NCLC-brief-covid-criminal-debt>

NCLC Issue Contact: Abby Shafroth @ ashafroth@nclc.org



Debt Collection

Frame: New and existing lawsuits and asset hearings must also be halted. States should not allow collectors to use the courts at a time when consumers are told to stay at home to avoid health risks and cannot defend themselves.

Policy Priorities Include: Debt collection activity should be suspended, especially wage garnishments, bank account seizures, offsets of benefits, and car repossessions, which deprive families of the means to pay for or obtain food, utilities, rent, medicine, and other essentials.

Link to Specific 2-Pagers: <https://bit.ly/brief-covid-19-lawsuits> & <http://bit.ly/brief-covid-family-stimulus-pay>

NCLC Issue Contact: April Kuehnhoff (akuehnhoff@nclc.org), Andrea Bopp Stark (astark@nclc.org), or Lauren Saunders (lsaunders@nclc.org).



Medical Debt

Frame: Fears over medical debt may make consumers reluctant to seek COVID-19 testing and treatment, which will exacerbate the crisis as appropriate testing and treatment is key to ending the COVID-19 crisis. States must make clear that no one will be punished for seeking the care they need.

Policy Priorities Include: During the state of emergency, testing, treatment, and vaccines must be available at no cost to patients, and consumer protections must be implemented for all medical debt once the crisis has passed.

Link to Specific 2-Pager: <https://bit.ly/brief-covid-19-medical-debt>

NCLC Issue Contact: Jenifer Bosco @ jbosco@nclc.org



Mortgage Relief

Frame: Not all mortgages are covered by the federal CARES Act and for those that are the relief is minimal or temporary. States must provide additional protections to keep consumers safe in their homes at this critical time, both during and immediately after the emergency period.

Policy Priorities Include: States should issue emergency regulations that impose a 180-day moratorium on all mortgage foreclosure-related actions and on evictions; prohibit non-judicial foreclosures; and require accessible and uniform forbearance agreements.

Link to Specific 2-Pager: <https://bit.ly/brief-covid-19-state-mortgage-relief>

NCLC Issue Contact: Geoff Walsh (gwalsh@nclc.org) or Andrea Bopp Stark (astark@nclc.org)



Preventing Garnishment Of Stimulus Checks

Frame: The stimulus checks are meant to help pay for food, utilities, rent, medicine, and other basic needs at a time when many have lost income — not to be directed away from families to creditors collecting on old debts.

Policy Priorities Include: States can help shore up consumers and their own local economies by using judicial and executive orders, emergency regulations, and legislation, to protect consumer stimulus payments from garnishment.

Link to Specific 2-Pager: <http://bit.ly/brief-covid-family-stimulus-pay>

NCLC Issue Contact: Lauren Saunders @ lsaunders@nclc.org



Utility Services

Frame: Especially with so many shelter-at-home orders in place, affordable electric, gas, water, sewer, and telecommunications (including broadband internet) service is essential to keep consumers connected to their communities and to remain safe.

Policy Priorities Include: States must ensure that utility services are kept on during the crisis and that people have access to telecommunications. Executive orders or state utility commissions must ban all regulated and unregulated utility service shut-offs and prohibit utilities from imposing late fees and engaging in negative credit reporting.

Link to Specific 2-Pager: <https://bit.ly/brief-covid-19-utilities>

NCLC Issue Contact: Jen Bosco (jbosco@nclc.org), Charlie Harak (charak@nclc.org), John Howat (jhowat@nclc.org), Karen Lusson (klusson@nclc.org) or Olivia Wein (owein@nclc.org)



What States Have Done

To find out what other states have already done:

- State restrictions on collection of non-mortgage consumer debt
- Limits on home foreclosures through moratoriums and stays
- Utility shutoff moratoriums
- Eviction moratoriums
- Vehicle repossession protections

The National Consumer Law Center's COVID-19 & Consumer Protections webpage will continue to be updated during the crisis, and other materials on what states can do more generally to protect and advance the interests of everyday consumers are also available.

If you would like to discuss an issue area or report new restrictions on debt collection or foreclosures, contact National Consumer Law Center Attorney Michael Best (mbest@nclc.org).



Action Items

1



Please distribute the roadmap of policy two-pagers widely!

<https://bit.ly/brief-stabilize-consumer-finance-covid-19>

2

Please share NCLC's consumer complaint form: <https://bit.ly/3auYIVY> and NACA and AFR's story-forms. Non-mortgage client stories: <https://bit.ly/2KmaEyH> Mortgage lender or servicer-related stories can be shared here: <https://bit.ly/2KoTbWs>

3

Please push for state action to protect the stimulus payments in states that haven't done so — examples include [CA](#), [IL](#), [MA](#), [OR](#) & [WA](#)

4

Join the Debt Policy call for federal updates, and state and local information and strategy sharing. Email mbest@nclc.org to join.

How to Help Clients Harmed Financially By the COVID-19 Emergency

Protecting Stimulus Checks

Consumers who have an outstanding judgment entered against them in a collection lawsuit may be at risk of losing stimulus money

More important than ever to protect this money from garnishment

See:

- [NCLC's Protecting Stimulus Checks From Garnishment;](#)
- [FAQs on Stimulus Payments](#)
- [Protecting Against Creditor Seizure of Stimulus Checks](#)

Protecting Stimulus Checks

- Checks have already started going out
- Can use “Get My Payment” application on IRS website:
<https://www.irs.gov/coronavirus/economic-impact-payments> beginning mid-April

Protecting Stimulus Checks

- Check payment status
- Confirm payment type: direct deposit or check
- Enter bank account information for direct deposit if IRS doesn't have your direct deposit information and hasn't sent your payment yet
- Let IRS know of a new address

Protecting Stimulus Checks

- If did not file taxes in 2018 or 2019 or were not required to file, can also use the "Non-Filers: Enter Your Payment Info Here" application
- If you receive SS, SSI, SSDI, survivor benefits, or RR benefits, already have info
 - A veteran or SSI beneficiary with kids can use application to apply for benefits for kids under 17 until May 5, 2020

Protecting Stimulus Checks

- Protected from certain debts owed to federal or state gov't under CARES Act
- BUT May be able to garnish bank accounts
- Each state is different
 - Many have closed courts = no new orders
 - But existing orders still may be executed
- Each state has own attachment or garnishment laws
 - May or may not attach to new funds
 - Collector may have waited to execute

Options to Protect Stimulus Check

- Can ask for a paper check BUT could take up to 20 weeks;
- seek direct deposit of the stimulus payment onto a prepaid card or a new bank account at a smaller bank or credit union;
- Withdraw funds as soon as deposited;

Protect Stimulus Check

- Seek an emergency stay/restraining order of any garnishment order on due process grounds:
 - deprived of due process of law of funds that are necessary to maintain basic life necessities
 - During court closure and/or stay at home order – no opportunity to be heard and assert defense ie: exemptions
 - Seizure of funds in joint account with judgment against one owner only
 - See [West Virginia Circuit Court Emergency Order](#)

Protect Stimulus Check

- If an account containing the stimulus check has already been garnished and/when courts are open, can assert due process argument and any relevant state exemptions
- See <https://library.nclc.org/ca/ag01> for an appendix of state exemptions
 - Relevant exemptions many include those for public benefits, money in bank accounts, tax credits, or wildcard exemptions

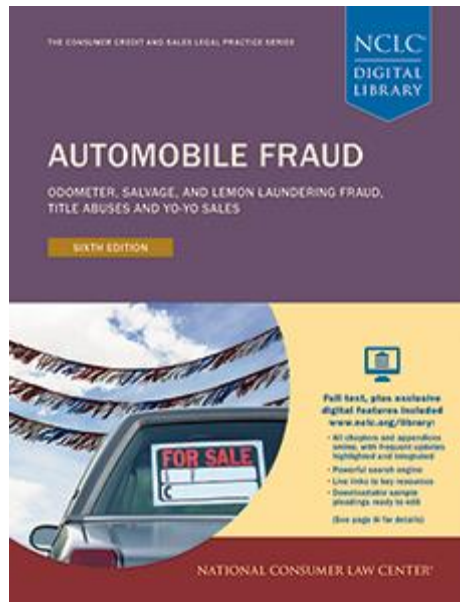
Auto Lending & Repossessions

- Review state and local orders regarding repossessions and debt collection activity in general
- Determine who the creditor is on the loan and see if providing any stated emergency relief

Auto Lending & Repossessions

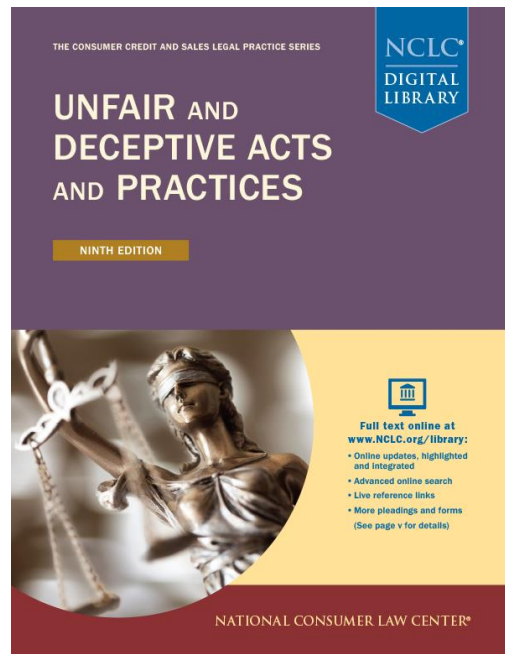
- Determine who regulates the creditor:
 - state or federally chartered bank or credit union, a state finance company, etc.?
 - Different regulators have had different recommendations which, while not binding, might be useful in negotiating with creditors.
- Also look to see if state or insurance co. has done anything re: premiums

Use the NCLC manuals: litigation checklist in chapter 1 of Auto Fraud manual to review finance payment history and agreement for possible claims = leverage



Leased Vehicles

- 1/3 of all cars are leased. Finance co.s don't want them back now
- Can help negotiate bargain on a lease extension



Mortgage Relief

- Encourage borrowers to pay mortgage if can afford it.
- If not: relief may be available but not for all loans
- For all loans: must be 120 days behind to start foreclosure

Mortgage Relief: CARES Act

- Provides **temporary** relief for borrowers with “federally backed mortgage loans:” loans owned or backed by a federal agency:
 - FHA; USDA; VA; Fannie Mae & Freddie Mac
- Need to find out what kind of loan borrower has

Loan Lookup

- Fannie:
<https://www.knowyouroptions.com/loanlookup>
- Freddie:
<https://ww3.freddie.mac.com/loanlookup/>
- FHA: Mortgage statement or closing docs

For All Loans: Request for Information

- Write a Request for Information asking for:
 - identity of, and address or other relevant contact information for, the owner or assignee of my mortgage loan;
 - the full name, address, and contact information for any trust that owns the loan and the trustee; or
 - any federally related entity that owns, insures, or guarantees my loan, including Fannie Mae, Freddie Mac, the Federal Housing Administration, or the U.S.D.A. Rural Housing Service

Request for Information

- Must use correct address
- Response in 10 business days
- Find sample and instructions at:
<https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>

If you have a federally backed loan

- No foreclosure until at least May 17, 2020 and
- Can request a forbearance agreement for up to 180 days plus another 180 days

If loan is not federally backed

- Depends on the owner/investor of the loan
- To find out options:
 - Call, review website or
 - Write Request for Information asking for all loss mitigation options available for the particular loan and instructions on how to apply for and/or request each loss mitigation option.

Another Request for Information

- Must use correct address
- 30 days to respond
- Find sample and instructions at:
<https://www.consumerfinance.gov/ask-cfpb/how-do-i-dispute-an-error-request-information-about-my-mortgage-en-1855/>

What is a forbearance agreement?

- A reduction or suspension of your payments for a set amount of time.
- Under the CARES Act, it can be up to 180 days with a possible additional 180 days upon request.
- Other programs allow more or less time.
- The payments are not waived or forgiven; they will have to be paid back.
- Does not cover taxes, insurance, or condo fees if no escrow account

What Happens at the End of a Forbearance Agreement?

- Pay the full amount in a lump sum at the end of the forbearance period;
- Add an extra amount to your monthly payments until the amount is repaid;
- Add the suspended payments to the end of the loan; or
- Apply for a loan modification

Find Out About Repayment Options

- Ask when applying or
- Write a Request for Information asking:
 - All repayment options available at the end of that forbearance period and
 - Instructions on how to apply for and/or request each loss mitigation option
- Connect with a HUD-approved housing counselor: 800-569-4287 or www.hud.gov

See:

- **[Coronavirus Emergency: What Consumers Need To Know About Mortgage Relief](#)**
- **[NCLC's Surviving Debt Chaps. 16-17 \(free online\)](#)**

Utilities and Broadband

- Apply for the federal **Lifeline phone and broadband program** for free or discounted voice and data service
- To determine eligibility and to apply go to:
<https://www.lifelinesupport.org/>

Utilities and Broadband

- Apply for the **Low Income Home Energy Assistance Program ("LIHEAP")** program: provides energy assistance to low income persons struggling to pay bills.
- To determine if you are eligible and where to apply, go to:
<https://www.benefits.gov/benefit/623>
- ❖ Congress added \$900 million to LIHEAP assistance funding for the states in the recently enacted CARES Act

Debt Collection

- Review state orders re: debt collection activity including new lawsuits
- Seek emergency stay of all hearings and deadlines due to public health emergency – if not already stayed
- Keep track of all debt collections calls:
 - Who called
 - When
 - What did they want

Stop Harassment

- Warn consumers not to give in to the pressure of debt collectors
- Must prioritize debt whose nonpayment immediately harms consumer
 - Court judgments, criminal justice debt, car loans, rent, utilities, child support
 - [Surviving Debt](#)

Stop Harassment

- Send letters
 - Stop contact: [Surviving Debt](#) p. 15
 - Exempt Income letter p.17
 - Verification letter p. 17-18
 - Dispute letter p. 19

Medical Debt

- Testing for COVID-19 should be free
- If receive a bill, contact hospital or provider to explain testing is free
- If insurer is involved, contact them
- If private insurer is not complying, contact state insurance commissioner or AG's office

Medical Debt

- Treatment should be covered
- Hospitals are receiving federal funds to cover care for uninsured patients
- Non-profit hospitals should have financial assistance policies in place
- Some states have ordered coverage
- Some insurers have waived co-pays

Criminal Justice Debt

- Check for [orders](#) from the court, city/county, or state providing relief from criminal justice debt, such as payment or collection suspensions
- Check for court orders continuing hearings and deadlines; if none exists request emergency stay of any hearing and deadlines due to the crisis
- Avoiding arrest and detention:
 - check for outstanding warrants or local policies on warrants for nonpayment or nonappearance (or, for those on parole/supervision, any criminal justice debt payment terms that could result in revocation),
 - check for current relevant emergency protections, and
 - proactively request a waiver of the debt or reduced payment levels due to financial hardship
 - assert constitutional right against incarceration for nonpayment if unable to afford to pay

Credit Reporting

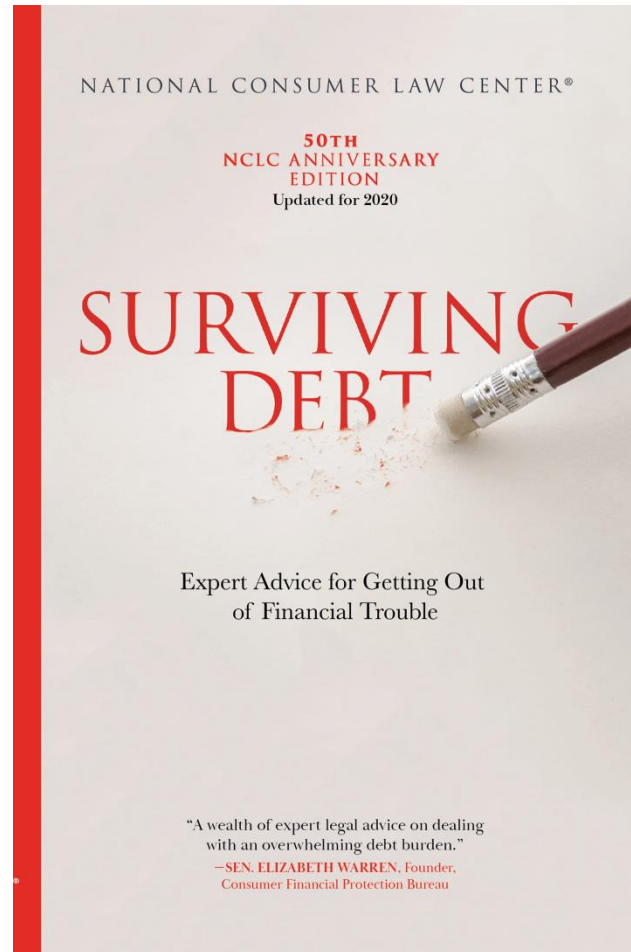
CARES Act:

- Limited protection for credit reports.
- For all credit accounts
- If you get a forbearance, payment deferral, or other accommodation AND
- you were **current** when you received the approval,
- *the creditor must continue to report you as current.*

Credit Reporting

- If you were **delinquent**, you'll continue to be reported as delinquent unless you can catch up during the accommodation period.
- You'll need to be persistent, because consumers have reported long hold times to reach creditors' customer service representatives. And you'll need to do this for each of your creditors that you'll have trouble paying (there are special rules for student loans)

Free online now



<https://library.nclc.org/sd/0102>



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