

116TH CONGRESS
2D SESSION

H. R. 6850

To protect stimulus checks from garnishment and fees and from being used as an offset by a credit union or depository institution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2020

Mr. MEEKS (for himself, Ms. PRESSLEY, and Ms. WATERS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect stimulus checks from garnishment and fees and from being used as an offset by a credit union or depository institution, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act have been cited as the “Protect our Checks
5 Act of 2020”.

6 **SEC. 2. PROTECTING STIMULUS CHECKS FROM GARNISH-** 7 **MENT AND FEES.**

8 (a) PROTECTION OF 2020 RECOVERY REBATES.—

1 (1) IN GENERAL.—Section 2201(d) of the
2 CARES Act (Public Law 116–136) is amended—

3 (A) by redesignating paragraphs (1), (2),
4 and (3) as subparagraphs (A), (B), and (C),
5 and by moving such subparagraphs 2 ems to
6 the right;

7 (B) in the heading, by striking “REDUC-
8 TION OR OFFSET” and inserting “REDUCTION,
9 OFFSET, GARNISHMENT, ETC.”;

10 (C) by striking “Any credit” and inserting
11 the following:

12 “(1) IN GENERAL.—Any credit”; and

13 (D) by adding at the end the following new
14 paragraphs:

15 “(2) ASSIGNMENT OF BENEFITS.—

16 “(A) IN GENERAL.—The right of any per-
17 son to any applicable payment shall not be
18 transferable or assignable, at law or in equity,
19 and no applicable payment shall be subject to
20 execution, levy, attachment, garnishment, or
21 other legal process or the operation of any
22 bankruptcy or insolvency law.

23 “(B) ENCODING OF PAYMENTS.—As soon
24 as practicable, in the case of an applicable pay-
25 ment that is paid electronically by direct deposit

1 through the Automated Clearing House (ACH)
2 network, the Secretary of the Treasury shall
3 issue the payment using a unique identifier that
4 is reasonably sufficient to allow a financial in-
5 stitution to identify the payment as a payment
6 protected under subparagraph (A). The Sec-
7 retary shall further encode the payment pursu-
8 ant to the same specifications as required for a
9 benefit payment (as defined in section 212.3 of
10 section 31, Code of Federal Regulations).

11 “(C) GARNISHMENT.—

12 “(i) ENCODED PAYMENTS.—Upon re-
13 ceipt of a garnishment order that applies
14 to an account that has received an applica-
15 ble payment that is encoded as provided in
16 subparagraph (B), a financial institution
17 shall follow the requirements and proce-
18 dures set forth in part 212 of title 31,
19 Code of Federal Regulations, except a fi-
20 nancial institution shall not, with regard to
21 any applicable payment, be required to
22 provide the notice referenced in section
23 212.6 or 212.7 of such title 31. This para-
24 graph shall not alter the status of pay-
25 ments as tax refunds or other nonbenefit

1 payments for purpose of any reclamation
2 rights of the Department of Treasury or
3 the Internal Revenue Service as per part
4 210 of such title 31.

5 “(ii) OTHER PAYMENTS.—If a finan-
6 cial institution receives a garnishment
7 order, other than an order that has been
8 served by the United States, that applies
9 to an account into which an applicable
10 payment that has not been encoded as pro-
11 vided in subparagraph (B) has been depos-
12 ited electronically or by check on any date
13 in the lookback period, the financial insti-
14 tution, upon the request of the account
15 holder, shall treat the amount of the funds
16 in the account at the time of the request,
17 up to the amount of the applicable pay-
18 ment, as exempt under law from a garnish-
19 ment order without requiring the consent
20 of the party serving the garnishment order
21 or the judgment creditor.

22 “(iii) LIABILITY.—A financial institu-
23 tion that acts in good faith in reliance on
24 clause (i) or (ii) shall not be subject to li-
25 ability or regulatory action under any Fed-

1 eral or State law, regulation, court or other
2 order, or regulatory interpretation for ac-
3 tions concerning any applicable payments.

4 “(D) DEFINITIONS.—For purposes of this
5 paragraph:

6 “(i) ACCOUNT HOLDER.—The term
7 ‘account holder’ means a natural person
8 whose name appears in a financial institu-
9 tion’s records as the direct or beneficial
10 owner of an account.

11 “(ii) ACCOUNT REVIEW.—The term
12 ‘account review’ means the process of ex-
13 amining deposits in an account to deter-
14 mine if an applicable payment has been de-
15 posited into the account during the
16 lookback period. A financial institution
17 shall perform an account review following
18 the procedures outlined in section 212.5 of
19 title 31, Code of Federal Regulations, and
20 in accordance with the requirements of sec-
21 tion 212.6 of such title 31.

22 “(iii) APPLICABLE PAYMENT.—The
23 term ‘applicable payment’ means any pay-
24 ment of credit or refund by reason of sec-

tion 6428 of the Internal Revenue Code of 1986 or subsection (c).

“(iv) GARNISHMENT.—The term ‘garnishment’ means execution, levy, attachment, garnishment, or other legal process.

“(v) GARNISHMENT ORDER.—The term ‘garnishment order’ means a writ, order, notice, summons, judgment, levy, or similar written instruction issued by a court, a State or State agency, or a municipality or municipal corporation to effect a garnishment against a debtor.

“(vi) LOOKBACK PERIOD.—The term ‘lookback period’ means the two month period that begins on the date preceding the date of an account review and ends on the corresponding date of the month two months earlier, or on the last date of the month two months earlier if the corresponding date does not exist.”.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Section 2201(d)(2) of the CARES Act, as added by subsection (a), shall take effect upon enactment.

1 (B) EXCEPTION.—Notwithstanding para-
2 graph (1), clauses (i) and (ii) of section
3 2201(d)(2)(C) of the CARES Act, as added by
4 subsection (a), shall take effect after the end of
5 the 10-day period beginning on the date of en-
6 actment of this Act.

7 (b) PROHIBITION ON USE OF COVID-19 STIMULUS
8 PAYMENTS AS OFFSET BY CREDIT UNIONS AND DEPOSI-
9 TORY INSTITUTIONS.—

10 (1) IN GENERAL.—A credit union or depository
11 institution may not offset or seize a COVID–19
12 stimulus payment to pay any amount due, or alleg-
13 edly due, to the credit union or depository institu-
14 tion.

15 (2) ENCODING OF PAYMENTS.—As soon as
16 practicable, in the case of a COVID–19 stimulus
17 payment that is paid electronically by direct deposit
18 through the Automated Clearing House (ACH) net-
19 work, the Secretary of the Treasury shall issue a
20 COVID–19 stimulus payment using a unique identi-
21 fier that is reasonably sufficient to allow a credit
22 union or depository institution to identify the pay-
23 ment as a payment protected under paragraph (1).

24 (3) DEFINITIONS.—In this subsection:

1 (A) COVID–19 STIMULUS PAYMENT.—The
2 term “COVID–19 stimulus payment” means
3 any payment made pursuant to section 6428 of
4 the Internal Revenue Code of 1986 or section
5 2201(c) of the CARES Act.

6 (B) CREDIT UNION.—The term “credit
7 union” means a Federal credit union and a
8 State credit union, as such terms are defined,
9 respectively, under section 101 of the Federal
10 Credit Union Act.

11 (C) DEPOSITORY INSTITUTION.—The term
12 “depository institution” has the meaning given
13 that term under section 3 of the Federal De-
14 posit Insurance Act.

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