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Indiana Supreme Court Protects COVID-19 Stimulus Checks



By **David M. Gettings & Kathleen M. Knudsen** on April 27, 2020

On April 20, the Indiana Supreme Court issued a published order protecting coronavirus stimulus checks from court orders placing a hold on, attaching, or garnishing funds attributable to a stimulus payment. The order is available [here](#).

Six days earlier, four entities had petitioned the Indiana Supreme Court to act under its emergency rulemaking authority to address this issue. Indiana Legal Services, Prosperity Indiana, Neighborhood Christian Legal Clinic, and Indiana Institute for Working Families requested the Court to protect the stimulus payments “authorized by Section 2201 of the federal Coronavirus Aid, Relief, and Economic Security Act (“stimulus payments”) from attempts by private creditors to attach or garnish those payments during the 2019 novel coronavirus (“COVID-19”) emergency.” The Court invited and reviewed briefing from the creditors’ bar.

Having considered all of the arguments and acting under its emergency rulemaking authority, the Court ordered that:

1. Courts shall issue no new orders placing a hold on, attaching, or garnishing funds in a judgment-debtor’s account in a depository institution as defined in the Depository Financial Institutions Adverse Claims Act, I.C. § 28-9-1-1, *et seq.*, if those funds are attributable to a stimulus payment, except that this prohibition shall not apply to judgments or orders for payment of child support.
2. As for any previously issued court orders placing a hold on a judgment-debtor’s account in a depository institution, the judgment-debtor shall be entitled, upon request, to a hearing (either in-person or remotely, as local circumstances permit), within two business days of the court’s receipt of said request, to determine which funds in the account are attributable to a stimulus payment and for the judgment-debtor to assert any exemption(s) under state or federal law. Courts shall treat such hearings as “essential” and “urgent” under this Court’s orders of March 16 and 23, 2020 in 20S-CB-123.

This order remains in place until the COVID-19 public health emergency expires or the Court otherwise orders.



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Lawmakers and State AGs Write Letters Compelling U.S. Treasury to Shield Stimulus Checks from Private Debt Collectors



By **Megan Burns, Ashley Nimitz & Ethan G. Ostroff** on April 16, 2020

Earlier this week, millions of Americans began receiving direct deposits from the federal government as part of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), signed into law last month.

Although meant to provide relief to consumers feeling the impact of furloughs and pay cuts as a result of the coronavirus (“COVID-19”) pandemic, a growing number of people are concerned that private debt collectors will take this opportunity to garnish stimulus money from delinquent borrowers.

While certain protections against debt collection were built into the CARES Act, including the inability of the federal government and Internal Revenue Service to recoup funds owed on defaulted federal student loans and delinquent taxes, many states and municipalities like **Washington, D.C.** and **New Jersey**, perceiving a potential gap in consumer protections, have taken further measures to put a moratorium on all debt collection activities during the pandemic.

Lawmakers and state attorneys general are urging the United States Department of the Treasury to shield consumers further from debt collection activities that could prevent consumers from receiving the stimulus funds that they so desperately need. A bipartisan **letter** to the Secretary of the Treasury, authored by Sen. Sherrod Brown (D-Ohio), Ranking Member of the Senate Committee on Banking, Housing, and Urban Affairs, and Sen. Josh Hawley (R-Mo.), urges Secretary Steven Mnuchin to take immediate action because “the CARES Act direct payments are at risk of being seized by debt collectors.” The senators assert how “[t]hat is not what Congress intended.” Instead, they ask that the applicable Treasury rules regarding Social Security, Supplemental Security Income, and other federal payments be extended to the CARES Act direct payments. Currently, Social Security and other federal payments are protected from garnishments to recover on a judgment.

Similarly, New York Attorney General Letitia James, and 22 other state attorneys general also wrote a **letter** on April 13 to Secretary Mnuchin

urging that he issue “regulation[s] or guidance designating CARES Act payments as ‘benefit payments’ exempt from garnishment.” The requested regulation from the Treasury would be authorized through built-in mechanisms within the CARES Act for rectifying such apparent oversights.

The attorneys general sent an additional **letter** directed to the Consumer Financial Protection Bureau, demanding that the agency enforce the provision of the CARES Act that provides consumers credit protection should they obtain temporary debt relief. The CFPB responded by asserting that it remains committed to ensuring that consumers are protected during the COVID-19 pandemic by providing guidance on credit reporting to creditors. Additional information on the CFPB’s response can be found **here**.

As stimulus payments continue to be rolled out, it appears that consumer advocates and lawmakers alike are steadfast in their resolve that stimulus funds should be exempt from debt collection.

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Massachusetts AG Declares CARES Act Payments Off-Limits



By **Chris Holinger & Ethan G. Ostroff** on April 15, 2020

Massachusetts Attorney General Maura Healey issued on Tuesday the latest in a **series of orders** regarding debt collection in the face of the coronavirus (“COVID-19”) outbreak. The most recent **guidance** document is aimed at protecting the relief payments that many Americans

expect to receive in coming weeks thanks to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

Massachusetts law exempts certain income and property from garnishment or attachment by creditors, including public assistance payments. Public assistance includes cash and in-kind benefits provided to individuals on a means-tested basis. The federal payments under the CARES Act are means-tested, meaning that individuals with incomes above a certain level will receive reduced payments, or no payment at all; thus, Attorney General Healey has ordered that those payments constitute public assistance and are exempt from garnishment.

Attorney General Healy already issued an **emergency regulation** regarding debt collection, which included a ban on new garnishment actions as just one of many consumer protection measures. This latest order, however, is written specifically to provide an extra level of protection for recipients of CARES Act payments and to ensure that they go to the families who need them.

For regular updates about the latest COVID-19 and CARES Act impacts on the financial services sector, be sure to visit the Pepper Hamilton/Troutman Sanders COVID-19 **Resource Center**.

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