

116TH CONGRESS
2D SESSION

S. 3841

AN ACT

To protect 2020 recovery rebates for individuals from
assignment or garnishment, 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,*

1 **SECTION 1. PROTECTION OF 2020 RECOVERY REBATES.**

2 (a) IN GENERAL.—Subsection (d) of section 2201 of
3 the CARES Act (Public Law 116–136) is amended—

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

7 (2) by striking “REDUCTION OR OFFSET.—Any
8 credit” and inserting “REDUCTION, OFFSET, GAR-
9 NISHMENT, ETC.—

10 “(1) IN GENERAL.—Any credit”, and

11 (3) by adding at the end the following new
12 paragraphs:

13 “(2) ASSIGNMENT OF BENEFITS.—

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

21 “(B) ENCODING OF PAYMENTS.—As soon
22 as practicable, but not earlier than 10 days
23 after the date of the enactment of this para-
24 graph, in the case of an applicable payment
25 that is paid electronically by direct deposit
26 through the Automated Clearing House (ACH)

1 network, the Secretary of the Treasury (or the
 2 Secretary’s delegate) shall—

3 “(i) issue the payment using a unique
 4 identifier that is reasonably sufficient to
 5 allow a financial institution to identify the
 6 payment as an applicable payment, and

7 “(ii) further encode the payment pur-
 8 suant to the same specifications as re-
 9 quired for a benefit payment defined in
 10 section 212.3 of title 31, Code of Federal
 11 Regulations.

12 “(C) GARNISHMENT.—

13 “(i) ENCODED PAYMENTS.—In the
 14 case of a garnishment order received after
 15 the date that is 10 days after the date of
 16 the enactment of this paragraph and that
 17 applies to an account that has received an
 18 applicable payment that is encoded as pro-
 19 vided in subparagraph (B), a financial in-
 20 stitution shall follow the requirements and
 21 procedures set forth in part 212 of title
 22 31, Code of Federal Regulations, except a
 23 financial institution shall not, with regard
 24 to any applicable payment, be required to
 25 provide the notice referenced in sections

1 212.6 and 212.7 of title 31, Code of Fed-
2 eral Regulations. This paragraph shall not
3 alter the status of applicable payments as
4 tax refunds or other nonbenefit payments
5 for purpose of any reclamation rights of
6 the Department of Treasury or the Inter-
7 nal Revenue Service as per part 210 of
8 title 31 of the Code of Federal Regula-
9 tions.

10 “(ii) OTHER PAYMENTS.—If a finan-
11 cial institution receives a garnishment
12 order, other than an order that has been
13 served by the United States or an order
14 that has been served by a Federal, State,
15 or local child support enforcement agency,
16 that has been received by a financial insti-
17 tution after the date that is 10 days after
18 the date of the enactment of this para-
19 graph and that applies to an account into
20 which an applicable payment that has not
21 been encoded as provided in subparagraph
22 (B) has been deposited electronically or by
23 an applicable payment that has been de-
24 posited by check on any date in the
25 lookback period, the financial institution,

upon the request of the account holder, shall treat the amount of the funds in the account at the time of the request, up to the amount of the applicable payment (in addition to any amounts otherwise protected under part 212 of title 31, Code of Federal Regulations), as exempt from a garnishment order without requiring the consent of the party serving the garnishment order or the judgment creditor.

“(iii) LIABILITY.—A financial institution that acts in good faith in reliance on clauses (i) or (ii) shall not be subject to liability or regulatory action under any Federal or State law, regulation, court or other order, or regulatory interpretation for actions concerning any applicable payments.

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

“(i) ACCOUNT HOLDER.—The term ‘account holder’ means a natural person whose name appears in a financial institution’s records as the direct or beneficial owner of an account.

“(ii) ACCOUNT REVIEW.—The term ‘account review’ means the process of examining deposits in an account to determine if an applicable payment has been deposited into the account during the lookback period. The financial institution shall perform the account review following the procedures outlined in section 212.5 of title 31, Code of Federal Regulations and in accordance with the requirements of section 212.6 of title 31, Code of Federal Regulations.

“(iii) APPLICABLE PAYMENT.—The term ‘applicable payment’ means any payment of credit or refund by reason of section 6428 of the Internal Revenue Code of 1986 (as so added) or by reason of subsection (c) of this section.

“(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

1 court, a State or State agency, a municipi-
 2 pality or municipal corporation, or a State
 3 child support enforcement agency, includ-
 4 ing a lien arising by operation of law for
 5 overdue child support or an order to freeze
 6 the assets in an account, to effect a gar-
 7 nishment against a debtor.

8 “(vi) LOOKBACK PERIOD.—The term
 9 ‘lookback period’ means the two month pe-
 10 riod that begins on the date preceding the
 11 date of account review and ends on the
 12 corresponding date of the month two
 13 months earlier, or on the last date of the
 14 month two months earlier if the cor-
 15 responding date does not exist.”.

16 (b) EFFECTIVE DATE.—The amendments made by
 17 this section shall take effect on the date of the enactment
 18 of this Act.

Passed the Senate July 23, 2020.

Attest:

Secretary.

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