

116TH CONGRESS
2D SESSION

S. 3841

To protect 2020 recovery rebates for individuals from assignment or garnishment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mr. GRASSLEY (for himself, Mr. BROWN, Mr. WYDEN, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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,*

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

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

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

(2) by striking “REDUCTION OR OFFSET.—Any credit” and inserting “REDUCTION, OFFSET, GARNISHMENT, ETC.—

“(1) IN GENERAL.—Any credit”, and

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

“(2) ASSIGNMENT OF BENEFITS.—

“(A) IN GENERAL.—The right of any person to any applicable payment shall not be transferable or assignable, at law or in equity, and no applicable payment shall be subject to, execution, levy, attachment, garnishment, or other legal process, or the operation of any bankruptcy or insolvency law.

“(B) ENCODING OF PAYMENTS.—As soon as practicable, but not earlier than 10 days after the date of the enactment of this paragraph, in the case of an applicable payment that is paid electronically by direct deposit through the Automated Clearing House (ACH) network, the Secretary of the Treasury (or the Secretary’s delegate) shall—

“(i) issue the payment using a unique identifier that is reasonably sufficient to

1 allow a financial institution to identify the
2 payment as an applicable payment, and

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

8 “(C) GARNISHMENT.—

9 “(i) ENCODED PAYMENTS.—In the
10 case of a garnishment order received after
11 the date that is 10 days after the date of
12 the enactment of this paragraph and that
13 applies to an account that has received an
14 applicable payment that is encoded as pro-
15 vided in subparagraph (B), a financial in-
16 stitution shall follow the requirements and
17 procedures set forth in part 212 of title
18 31, Code of Federal Regulations, except a
19 financial institution shall not, with regard
20 to any applicable payment, be required to
21 provide the notice referenced in sections
22 212.6 and 212.7 of title 31, Code of Fed-
23 eral Regulations. This paragraph shall not
24 alter the status of applicable payments as
25 tax refunds or other nonbenefit payments

1 for purpose of any reclamation rights of
2 the Department of Treasury or the Inter-
3 nal Revenue Service as per part 210 of
4 title 31 of the Code of Federal Regula-
5 tions.

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

1 addition to any amounts otherwise pro-
 2 tected under part 212 of title 31, Code of
 3 Federal Regulations), as exempt from a
 4 garnishment order without requiring the
 5 consent of the party serving the garnish-
 6 ment order or the judgment creditor.

7 “(iii) LIABILITY.—A financial institu-
 8 tion that acts in good faith in reliance on
 9 clauses (i) or (ii) shall not be subject to li-
 10 ability or regulatory action under any Fed-
 11 eral or State law, regulation, court or other
 12 order, or regulatory interpretation for ac-
 13 tions concerning any applicable payments.

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

16 “(i) ACCOUNT HOLDER.—The term
 17 ‘account holder’ means a natural person
 18 whose name appears in a financial institu-
 19 tion’s records as the direct or beneficial
 20 owner of an account.

21 “(ii) ACCOUNT REVIEW.—The term
 22 ‘account review’ means the process of ex-
 23 amining deposits in an account to deter-
 24 mine if an applicable payment has been de-
 25 posited into the account during the

1 lookback period. The financial institution
2 shall perform the account review following
3 the procedures outlined in section 212.5 of
4 title 31, Code of Federal Regulations and
5 in accordance with the requirements of sec-
6 tion 212.6 of title 31, Code of Federal
7 Regulations.

8 “(iii) APPLICABLE PAYMENT.—The
9 term ‘applicable payment’ means any pay-
10 ment of credit or refund by reason of sec-
11 tion 6428 of the Internal Revenue Code of
12 1986 (as so added) or by reason of sub-
13 section (c) of this section.

14 “(iv) GARNISHMENT.—The term ‘gar-
15 nishment’ means execution, levy, attach-
16 ment, garnishment, or other legal process.

17 “(v) GARNISHMENT ORDER.—The
18 term ‘garnishment order’ means a writ,
19 order, notice, summons, judgment, levy, or
20 similar written instruction issued by a
21 court, a State or State agency, a munici-
22 pality or municipal corporation, or a State
23 child support enforcement agency, includ-
24 ing a lien arising by operation of law for
25 overdue child support or an order to freeze

1 the assets in an account, to effect a gar-
2 nishment against a debtor.

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

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of the enactment
13 of this Act.

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