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Concerning Limitations on Certain Debt Collection Actions.

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CHAPTER 140

COURTS

SENATE BILL 20-211

BY SENATOR(S) Winter and Gonzales, Danielson, Fenberg, Fields, Hansen, Lee, Moreno, Pettersen, Rodriguez, Story, Todd; also REPRESENTATIVE(S) Herod, Bird, Buckner, Buentello, Duran, Exum, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jaquez Lewis, Lontine, Michaelson Jenet, Mullica, Snyder, Titone, Valdez A., Weissman, Woodrow.

AN ACT**CONCERNING LIMITATIONS ON CERTAIN DEBT COLLECTION ACTIONS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The COVID-19 epidemic has the potential to cause and has caused economic hardship for Coloradans beyond those directly and intimately affected by the declared disaster emergency. The economic hardships caused, directly or indirectly, by the declared disaster emergency may be made worse by the involuntary disablement of property by extraordinary collection actions such as attachment, garnishment, execution, and levy. Involuntary disablement of property through these extraordinary collection actions contributes to significant numbers of bankruptcies, foreclosures, evictions, and repossessions, which threaten to create and do create further economic harm beyond those directly affected.

(b) Existing regulations may not adequately protect consumers in the context of a declared disaster emergency and may not be sufficient to prevent the further economic harm caused by extraordinary collection actions. It is therefore necessary to provide additional protections to Colorado consumers.

SECTION 2. In Colorado Revised Statutes, **add** 24-33.5-704.3 as follows:

24-33.5-704.3. Temporary prohibition on extraordinary collection actions - extension - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) "DEBT" HAS THE SAME MEANING AS SET FORTH IN SECTION 5-16-103 (8). "DEBT" DOES NOT INCLUDE ANY DEBT ARISING OUT OF A PAST OR PRESENT CHILD SUPPORT OBLIGATION.

(b) "EXTRAORDINARY COLLECTION ACTION" MEANS ANY ACTION OR PROCEEDING IN THE NATURE OF AN ATTACHMENT, GARNISHMENT, LEVY, OR EXECUTION TO COLLECT OR ENFORCE A JUDGMENT ON A DEBT.

(2) IN ORDER TO PROTECT COLORADO RESIDENTS DURING THE PUBLIC HEALTH CRISIS CAUSED BY COVID-19, FOR THE TIME PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND ENDING ON NOVEMBER 1, 2020, A JUDGMENT CREDITOR SHALL NOT INITIATE OR MAINTAIN A NEW EXTRAORDINARY COLLECTION ACTION EXCEPT IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. A COURT OF RECORD SHALL DENY WITHOUT PREJUDICE ANY REQUEST FOR ISSUANCE OF A WRIT OR LEGAL PROCESS TO EFFECT AN EXTRAORDINARY COLLECTION ACTION IF THE COURT FINDS THAT THE ACTION DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION. DURING THE TIME PERIOD DESCRIBED IN THIS SUBSECTION (2), AND AS IT MAY BE EXTENDED UNDER SUBSECTION (3) OF THIS SECTION, THE USE OF AN EXTRAORDINARY COLLECTION ACTION CONSTITUTES AN UNFAIR AND UNCONSCIONABLE MEANS OF COLLECTING A DEBT UNDER SECTION 5-16-108.

(3) THE ADMINISTRATOR OF THE "UNIFORM CONSUMER CREDIT CODE", AS DEFINED IN SECTION 5-16-103 (1), MAY ISSUE AN ORDER EXTENDING THE PROHIBITION SET FORTH IN SUBSECTION (2) OF THIS SECTION THROUGH FEBRUARY 1, 2021, IF THE ADMINISTRATOR FINDS THAT SUCH AN EXTENSION IS NECESSARY TO PRESERVE AND PRIORITIZE THE RESOURCES OF STATE AND LOCAL AGENCIES OR TO PROTECT COLORADO RESIDENTS FROM ECONOMIC HARDSHIP AS A RESULT OF THE DISASTER EMERGENCY CAUSED BY COVID-19.

(4) FOR THE DURATION OF THE PERIOD ESTABLISHED IN SUBSECTION (2) OF THIS SECTION, AND AS IT MAY BE EXTENDED UNDER SUBSECTION (3) OF THIS SECTION, PRIOR TO THE EXECUTION OR SERVICE OF A WRIT OR LEGAL PROCESS INTENDED TO EFFECT AN EXTRAORDINARY COLLECTION ACTION, THE JUDGMENT CREDITOR SHALL PROVIDE A WRITTEN NOTICE TO THE JUDGMENT DEBTOR. THE NOTICE MUST BE SENT TO THE JUDGMENT DEBTOR AT LEAST TEN DAYS, BUT NOT MORE THAN SIXTY DAYS, PRIOR TO THE EXECUTION OR SERVICE OF A WRIT OR LEGAL PROCESS INTENDED TO EFFECT THE EXTRAORDINARY COLLECTION ACTION DURING THE DURATION OF THE PERIOD ESTABLISHED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION, AND AS IT MAY BE EXTENDED UNDER SUBSECTION (3) OF THIS SECTION.

(5)(a)(I) THE NOTICE REQUIRED BY SUBSECTION (4) OF THIS SECTION MUST BE IN AT LEAST SIXTEEN POINT TYPE FACE, AND MUST INCLUDE THE FOLLOWING:

**"YOU HAVE THE RIGHT TO TEMPORARILY SUSPEND THIS
COLLECTION ACTION IF YOU ARE FACING FINANCIAL
HARDSHIP DUE TO THE COVID-19 EMERGENCY.**

JUDGMENT CREDITOR NAME:
JUDGMENT CREDITOR ADDRESS:
CASE NUMBER:
PHONE:

THE ABOVE JUDGMENT CREDITOR INTENDS ON EXECUTING A COLLECTION ACTION AGAINST YOU. IF YOU HAVE EXPERIENCED FINANCIAL HARDSHIP DUE TO THE COVID-19 EMERGENCY, DIRECTLY OR INDIRECTLY, YOU HAVE THE RIGHT TO SUSPEND TEMPORARILY THIS EXTRAORDINARY COLLECTION ACTION. THE SUSPENSION IS EFFECTIVE UNTIL NOVEMBER 1, 2020, OR FEBRUARY 1, 2021, IF THE STATE OF COLORADO EXTENDS THE PERIOD OF SUSPENSION.

TO EXERCISE THIS RIGHT, YOU MUST NOTIFY THE JUDGMENT CREDITOR THAT YOU ARE EXPERIENCING FINANCIAL HARDSHIP DUE TO THE COVID-19 EMERGENCY. YOU CAN PROVIDE THIS NOTICE BY PHONE CALL OR BY WRITING TO THE CREDITOR AT THE ADDRESS SHOWN IN THIS NOTICE. YOUR NOTIFICATION TO THE JUDGMENT CREDITOR MUST INCLUDE YOUR FULL NAME (FIRST AND LAST), THE CASE NUMBER IDENTIFIED ABOVE AND AT LEAST ONE (1) ADDITIONAL PIECE OF THE FOLLOWING INFORMATION: YOUR DATE OF BIRTH, SOCIAL SECURITY NUMBER, PHYSICAL AND MAILING ADDRESSES, OR THE JUDGMENT CREDITOR'S INTERNAL ACCOUNT NUMBER OR IDENTIFIER, IF DIFFERENT FROM THE CASE NUMBER DESIGNATED ABOVE. YOU ARE NOT REQUIRED TO PROVIDE DOCUMENTATION TO SUPPORT YOUR REQUEST.

NOTE: REQUESTING THE TEMPORARY SUSPENSION OF THIS EXTRAORDINARY DEBT COLLECTION ACTION IS NOT A WAIVER OF THE OBLIGATION TO PAY OR DEBT FORGIVENESS. INTEREST MAY CONTINUE TO ACCRUE ON THE JUDGMENT DEBT EVEN WHILE EXTRAORDINARY COLLECTION ACTIONS ARE SUSPENDED.

YOU MAY ENTER INTO A VOLUNTARY REPAYMENT PLAN WITH THE JUDGMENT CREDITOR, BUT YOU ARE NOT REQUIRED TO DO SO."

(II) A NOTICE ISSUED BY A BANK TO A JUDGMENT DEBTOR MUST ALSO INCLUDE ALL NECESSARY FEDERAL REGULATORY LANGUAGE.

(b) THE NOTICE REQUIREMENTS UNDER THIS SECTION TERMINATE ONCE THE PERIOD PROSCRIBED IN SUBSECTION (2) OF THIS SECTION, AND AS IT MAY BE EXTENDED UNDER SUBSECTION (3) OF THIS SECTION, EXPIRES. THE NOTICE MUST BE SENT TO A JUDGMENT DEBTOR AT THE DEBTOR'S LAST KNOWN ADDRESS TO THE JUDGMENT CREDITOR. AN ADDITIONAL COPY OF THE NOTICE MUST ALSO BE SERVED WITH THE WRIT OF GARNISHMENT. IN THE CASE OF A WRIT OF CONTINUING GARNISHMENT FOR WAGES, THE NOTICE MUST ACCOMPANY THE WRIT SERVED UPON THE GARNISHEE. THE FAILURE OF THE GARNISHEE OR ITS AGENT TO PROVIDE THE NOTICE TO THE JUDGMENT DEBTOR REQUIRED BY THIS SUBSECTION (5) DOES NOT CREATE A CAUSE OF ACTION OR REMEDY AGAINST A JUDGMENT CREDITOR.

(6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 3. In Colorado Revised Statutes, 13-54-102, **add** (1)(w) as follows:

13-54-102. Property exempt - definitions - repeal. (1) The following property is exempt from levy and sale under writ of attachment or writ of execution:

(w) (I) THROUGH FEBRUARY 1, 2021, UP TO FOUR THOUSAND DOLLARS CUMULATIVE IN A DEPOSITORY ACCOUNT OR ACCOUNTS IN THE NAME OF THE DEBTOR.

(II) THIS SUBSECTION (1)(w) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 4. In Colorado Revised Statutes, 5-16-108, **add** (1)(k) as follows:

5-16-108. Unfair practices. (1) A debt collector or collection agency shall not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, the following conduct:

(k) AN ATTEMPT TO COLLECT AN AMOUNT IN EXCESS OF THE AMOUNTS PERMITTED UNDER SECTION 13-54-102 OR 13-54-104.

SECTION 5. Applicability. Section 3 of this act applies to writs of garnishment, attachment, or execution ordered on or after the effective date of this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 29, 2020