

May 5, 2020

Dear Senator Pou,

We represent major business organizations in this state whose members provide millions of private- sector jobs. We are writing to express our concerns with the proposed “COVID-19 Financial Security for Consumers Act” (S-2330). As currently drafted, this bill is bad for New Jersey. It is overly broad, incentivizes people not to pay their bills, will disrupt the economy, and will harm already struggling small businesses. This bill would also have a devastating impact on our healthcare providers, the very persons who are jeopardizing their lives during this pandemic. This bill, without amendment, should be held.

However, we recognize that the sponsor, Senator Pou, has agreed to move amendments that would delete section 3 from the bill. We are appreciative of this amendment as it resolves many of the concerns that we have. However, we also request that Section 4 be amended to limit the applicability to affected persons and to COVID-19 related debt.

The current COVID-19 pandemic and the emergency economic shutdown orders have taken a significant toll on New Jersey residents and businesses. As our unemployment rate reaches 25% and many of our businesses wonder how long they can continue to exist and whether they can ever reopen, we fully understand the legislative inclination to do something to alleviate the pain being inflicted. However, the proposed “COVID-19 Financial Security for Consumers Act,” without amendment, would not solve the problems it is intended to address and will, in all likelihood, create greater economic uncertainty and harm.

The most problematic provision in this bill is Section 3 concerning debt relief. While we recognize that the sponsor has agreed to amend the bill to delete this provision, we wanted to go on record with our concerns with this provision as it currently exists in the bill. That section would prevent any person from seeking to collect any debt during the “covered period” which can last until 120 days after the end of the COVID-19 emergency. A creditor would essentially be banned from attempting to collect that debt or even communicating with the affected person. It is unclear if any interest or any penalties would accrue during the covered period, but we would assume that they would not.

We strongly oppose this ban on debt collection for the following reasons:

- Lack of a Problem: While we understand that many people have been impacted by the economic shutdown in response to the pandemic, we are also aware that in many, if not most situations, creditors are working with people to defer debt payments or work out payment plans. There are also numerous provisions in existing law that confer rights on debtors and responsibilities on creditors. The system to our knowledge is largely working without government intervention.

We also note people on the lower end of the economic spectrum, those making under \$70,000, should not have been financially impacted at all. If a person making that amount of money was laid off or furloughed, unemployment compensation supplemented by the federal CARES Act, which includes a \$600 additional payment per week, should not have

suffered any loss of income. In many instances their take-home pay was increased. In addition, the CARES Act also provided payments of \$1,200 to these persons. Those at lower income levels will continue to receive government assistance at their current level. While there may be financial hardships at higher income levels, there should not be such hardships for the most vulnerable. Thus, if the intent is to provide debt relief for the most vulnerable, or those with lower incomes, there is not a problem that needs to be addressed.

- Shifting of Burdens: While we fully appreciate that many persons have been financially harmed due to the COVID-19 pandemic, many of those most impacted are small businesses who have been forced to shut down. While those businesses are struggling to survive and find a way to reopen when allowed, this bill may remove an essential revenue source from these businesses and can cause them to go bankrupt. Businesses often sell products and services with a time period to pay receivables. This is a revenue source needed for these businesses to pay their bills, including rent and salaries, as well as to buy new inventory. This legislation may make it harder for these small businesses to have the revenue they need to survive. It is not fair to shift the economic burdens of one set of persons onto another set.
- Creating Economic Incentives Not to Pay Bills: While many people and businesses will continue to pay their bills if they can, this bill creates an economic incentive not to pay bills. While the debt may not go away, there are numerous reasons not to pay a debt during the covered period if there is no penalty for not paying. If the number of people who decide not to pay their bills is 5% or 50%, this economic incentive will mean that many people will fail to pay their debts simply because they can. This means that many businesses will not be able to pay their bills, including salaries to their workers.
- Lack of Meaningful Standards: Section 3 of the bill applies to all persons, not just those impacted by COVID-19. Even if the bill were to apply to only “affected persons,” there are no standards or criteria to determine who is an “affected person.” The bill merely provides that any person who asserts that they were financially impacted by the COVID-19 pandemic can take advantage of this bill’s debt relief provisions. It does not require that the financial impact be sufficient enough to prevent a person from paying a bill. While the bill is obviously intended to broadly help a class of persons, its lack of standards is an invitation for abuse.
- The Bills are Overly Broad: The bill applies both to individuals and businesses. While individuals may arguably have some need for protection from creditors, the business community is not asking that commercial contract law be thrown out and debt requirements between businesses be paused. We think there are sufficient protections in the existing market and legal structures to assist businesses. If the Legislature wants to alleviate some of the business concerns, we would request that they appropriate some of the Coronavirus Relief Fund monies for small business grants as was intended in the CARES Act.

Further, this bill would apply to both old debt and new. While there may be some rationale to provide some protections for those whose economic situations have changed when they are saddled with existing debt, we can fathom no rationale for that person to incur new debt and then be given relief from having to pay that debt.

- Unintended Consequences: At this point in time we do not know if anyone really needs the relief provided in this bill. More significantly, we do not know what the unintended consequences will be. Such a sweeping prohibition of debt collection for up to seven months will no doubt have enormous consequences on business activity, the economy, tax revenues, and the ability of businesses to reopen and even stay in business. If a business reopens and sells a product or service will the new debt also be able to be deferred for seven months? How can a business reopen if it cannot collect receivables and has no assurance that any new credit given will be repaid within the contractually required timeframe? What will this do to the availability and cost of mortgages or credit going forward? Which business will give credit? This may result in the short term elimination of credit in favor of a cash only economy. Many persons and businesses need credit to survive until they can sell a product and they themselves get paid or collect a debt. Individuals who rely on credit, especially those with lower incomes, may find they no longer can purchase the items they need because they must pay up front. These issues are real and concerning. The bottom line is that Section 3 of this bill would create a complete disruption of our centuries old credit economy with consequences beyond our ability to fully realize.
- Debt Collectors Benefit the System: While no one wants to have a debt collected from them, it is important to remember that debts need to be paid and collectors can help individuals financially recover, get needed credit, and resume their lives. Debt collectors are professionals whose job it is to help resolve issues for individuals and allow the system to work. Without their services, debtors would likely have more financial problems and take longer to recover, if they can at all.

Section 4 of the bill relating to the ability to collect medical debt is also extremely problematic. Many of the points expressed above relating to general debt also apply to medical debt. This provision is even more problematic in that it applies to all individuals and not limited to affected persons. Even if this provision were changed, it is unfair to prevent doctors, hospitals, and other providers from collecting the money they are owed for providing services. There are over 15,000 specialty physicians currently in the state who cannot work and collect an income. Prohibiting them from collecting money they are owed is punishing them after they have already been denied an income. Hospitals too are on the verge of financial ruin as they cannot collect their normal revenue streams. While healthcare providers do save lives for a living, they do need to earn a living. These facilities and the workers do not work for free.

If there is a need to address any issue, it should be debt related to COVID-19 treatment. If section 4 is to remain in the bill, then it should be amended to only affected persons and only for COVID-19 related medical billing.

Finally, we believe limiting COVID-19 covered period related debt from credit reports will do more harm than good. While many New Jersey residents are facing financial stress due to unemployment and other hardships related to the COVID-19 pandemic, the provisions that address consumer reporting in Section 2 would actually further disrupt New Jersey residents' access to credit. Instead, the industry already has a proven system in place to protect consumers' credit reports during a disaster. While this proposed language attempts to help consumers with their credit, this approach has the potential to result in halting consumer lending in New Jersey.

We ask that this bill be held, unless amended, given the lack of a real issue to be solved and the myriad of problems it will cause, many of which are not even known or contemplated. At the least, Section 3 should be deleted and Section 4 should be limited to affected persons for COVID-19 related debt. Thank you for your consideration and we would be happy to discuss in more detail.

Sincerely,

Access to Care Coalition

American Physical Therapy Association of NJ

Chamber of Commerce Southern New Jersey

Chemistry Council of NJ

Consumer Data Industry Association

CrossState Credit Union Association

Early Childhood Education Advocates

EDGE Consulting NJ

Fuel Merchants Association of NJ

Hamilton Public Affairs

Home Health Services Association of NJ

Komjathy & Kean, LLC

Lightbridge Academy

National Federation of Independent Business

New Jersey Bankers Association

New Jersey Business & Industry Association

New Jersey Chamber of Commerce

New Jersey Child Care Association

New Jersey Civil Justice Institute

New Jersey Creditors Bar Association
New York Shipping Association, Inc.
NJ Association of Collection Agencies
NJ Association of Osteopathic Physicians and Surgeons
NJ Gasoline, C-Store, Automotive Association
NJ Independent Electrical Contractors Association
NJ Podiatric Medical Society
NJ Section of American College of Obstetrics and Gynecologists
NJ Society of Interventional Pain Physicians
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