[First Reprint]

ASSEMBLY, No. 3908

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED APRIL 9, 2020

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SYNOPSIS

"COVID-19 Financial Security for Consumers Act."

CURRENT VERSION OF TEXT

As reported by the Assembly Commerce and Economic Development Committee on May 7, 2020, with amendments.

(Sponsorship Updated As Of: 5/1/2020)

AN ACT concerning financial security, amending P.L.2020, c.7 and N.J.S.2A:17-19, and supplementing various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) As used in sections 1[1]**[**,**]** and[1] 2[1]**[**, and 3**]**[1] of this act:

"Affected person" means a person who is a resident of this State and has suffered [1]**[**financial hardship**]** a loss of income[1] as a result of the coronavirus disease 2019 pandemic.

"Covered coronavirus period" means the period beginning with the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 and extending [1]**[**120**]** 90[1] days following the end of that public health emergency and state of emergency [1], or extending until December 1, 2020, whichever date is sooner[1].

[1]**[**"Creditor" means any person and any agent, servant, employee, or attorney of a person engaged in collecting a debt owed or alleged to be owed to the person by a debtor and shall also include a buyer of delinquent debt who hires a third party or an attorney to collect a debt. A person shall not be deemed to be engaged in collecting a debt, if the person's activities are solely for the purpose of serving legal process on another person in connection with the judicial enforcement of a debt.

"Debt collector" means any person or business whose principal purpose is the collection of a debt, or who regularly collects or attempts to collect, directly or indirectly, a debt owed or due or asserted to be owed or due another. The term debt collector shall also include any person who buys or acquires debt that is in default at the time of purchase or acquisition and who seeks to collect that debt. The term debt collector shall include a creditor who, in the process of collecting the creditor's own debt, uses any name other than the creditor's own name which would indicate that a third person is collecting or attempting to collect the debt. The term debt collector shall also include a person in a business the principal purpose of which is the enforcement of security interests.**]**[1]

"User of a consumer report" means any person or entity that is furnished a consumer report for a purpose that is permissible pursuant to section 4 of P.L.1997, c.172 (C.56:11-31).

2. (New section) a. (1) An affected person may contact any consumer reporting agency and inform the agency that the person

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ACE committee amendments adopted May 7, 2020.

has experienced financial hardship as a result of the coronavirus disease 2019 pandemic.

(2) Any consumer reporting agency that receives a request pursuant to paragraph (1) of this subsection shall respond to the affected person [1]**[**and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety**]**[1] within five days of receiving the request. The agency shall place an alert in the file of that [1]**[**consumer**]** affected person[1] indicating the [1]**[**consumer**]** affected person[1] has been impacted by the coronavirus disease 2019 pandemic and shall provide that alert in any consumer report or credit score provided by the agency.

b. (1) No user of a consumer report shall consider any adverse information that is a result of the coronavirus disease 2019 pandemic in a consumer report pertaining to an affected person who provides the user with notice pursuant to paragraph (2) of this subsection, or who has an alert included in the person's consumer report pursuant to paragraph [1]**[**(3)**]** (2)[1] of subsection a. of this section.

(2) An affected person may contact any user of a consumer report and request that the user disregard any adverse information related to the person in a consumer report with respect to the covered coronavirus period.

(3) Any user of a consumer report that receives a request pursuant to paragraph (2) of this subsection shall respond to the affected person [1]**[**and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety**]**[1] within five days of receiving the request.

c. No charge shall be imposed by a consumer reporting agency pursuant to section 10 of P.L.1997, c.172 (C.56:11-37) with respect to a request made by a consumer pursuant to this section.

d. No person shall create, implement, or revise a credit scoring model that would treat as a negative factor or value any adverse information reported during the covered coronavirus period if the consumer's file or report includes an alert pursuant to paragraph [1]**[**(3)**]** (2)[1]of subsection a. of this section.

[1]**[**3. (New section) a. Except as otherwise provided in subsection d. of this section, with respect to the covered coronavirus period, no creditor or debt collector shall:

(1) initiate, file, or threaten to file any new collection lawsuit;

(2) initiate, threaten to initiate, or act upon any legal or equitable remedy for the garnishment, seizure, attachment, or withholding of wages, earnings, property or funds for the payment of a debt to a creditor;

(3) initiate, threaten to initiate, or act upon any legal or equitable remedy for the repossession of any vehicle;

(4) visit or threaten to visit the household of a debtor at any time;

(5) visit or threaten to visit the place of employment of a debtor at any time;

(6) confront or communicate in person with a debtor regarding the collection of a debt in any public place at any time; or

(7) report any portion of a debt which is alleged to be unpaid, to any debt collector.

b. With respect to the covered coronavirus period, no debt collector shall initiate a communication with any debtor via telephone, either in person or by recorded audio message to the debtor's residence, cellular telephone, or other telephone number provided by the debtor, except that a debt collector shall not be deemed to have initiated a communication with a debtor if the communication by the debt collector is in response to a request made by the debtor for the communication.

c. A debtor or the Attorney General may bring an action alleging a creditor or debt collector has violated the provisions of this act. Upon a finding that non-compliance by a creditor or debt collector with this section has occurred, a court of competent jurisdiction may:

(1) order the non-compliant creditor or debt collector to retract the debt reported to the collection or credit reporting agency, bureau, or data collection facility;

(2) impose a fine on the non-compliant creditor or debt collector, not to exceed $5,000;

(3) order the non-compliant creditor or debt collector to pay a reasonable counsel fee in connection with a debtor who has suffered damage as a result of an attempt to collect a debt or damage to a credit rating due to the reporting of a debt to a collection or credit reporting agency, bureau, or data collection facility;

(4) order the non-compliant creditor or debt collector to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of a claimant, with a showing made to the court of the efforts made in that regard; and

(5) order the non-compliant creditor or debt collector to pay an award of damages to the individual not to exceed 25 percent of the debt attempted to be collected or reported by the non-compliant creditor or debt collector to the collection or credit reporting agency, bureau, or data collection facility, the minimum award being $350.

d. In the case of an action or proceeding that would otherwise be barred from being brought by the expiration of the statute of limitations as provided in N.J.S.2A:14-1 or N.J.S.12A:2-725, as applicable during the covered coronavirus period, a creditor or debt collector may commence an action or proceeding in a court of competent jurisdiction against a debtor, provided that the creditor or debt collector includes in any process served on a debtor prominent

language putting the debtor on notice that the creditor or debt collector may not attempt to collect on any portion of a debt which is alleged to be unpaid or report any portion of a debt which is alleged to be unpaid, to any collection or credit reporting agency, bureau, or data collection facility, until the conclusion of the covered coronavirus period.**]**[1]

[1][4.**]** 3.[1] (New section) a. **[1][**Until**]** Except as provided in subsection h. of this section, until[1] 180 days after the first bill for a medical debt has been sent, no medical creditor or medical debt collector shall take any legal action against an individual, including but not limited to, placing a lien on an individual's property; attaching or seizing an individual's bank account or any other personal property; commencing a civil action against an individual; or garnishing an individual's wages.

b. At least 30 days before taking legal action against an individual, a medical creditor or medical debt collector shall provide to the individual written information on:

(1) any financial assistance that is available for eligible individuals;

(2) any legal actions that may be initiated in order to obtain payment; and

(3) a deadline after which those legal actions may be initiated, which date shall be no earlier than 30 days after the date of the notice.

c. A medical creditor or a medical debt collector shall not initiate a legal action unless the action is described in the creditor or collector’s billing and collections policy.

d. A medical creditor or a medical debt collector shall not sell an individual's debt to another party, except if, prior to the sale, the medical creditor or medical debt collector has entered into a legally binding written agreement with the medical debt buyer that provides that the medical debt buyer shall comply with the requirements of this section, and that the debt is returnable to or recallable by the medical creditor upon a determination by the medical creditor or medical debt buyer that the individual is eligible for financial assistance.

e. During the one year period beginning on the date when **[1][**a consumer**]** an individual[1] is first given a bill for medical debt, no medical creditor or medical debt collector shall communicate with or report any information to a consumer reporting agency regarding the medical debt.

f. After the one year period described in subsection e. of this section has elapsed, a medical creditor or medical debt collector shall give **[1][**a consumer**]** an individual[1] at least one additional bill before reporting a medical debt to a consumer reporting agency. The amount reported to the consumer reporting agency shall be the

same as the amount stated in the bill, and the bill shall state that the debt is being reported to a consumer reporting agency. A medical debt collector shall provide the [1]⟦consumer⟧ individual[1] the notice required by 15 U.S.C. s.1692g before reporting a debt to a consumer reporting agency.

g. [1]⟦A debtor⟧ An individual[1] or the Attorney General may bring an action alleging a medical creditor or medical debt collector has violated the provisions of this section. Upon a finding that non-compliance by a medical creditor or medical debt collector with this section has occurred, a court of competent jurisdiction may:

(1) order the non-compliant medical creditor or medical debt collector to retract the debt reported to the collection or credit reporting agency, bureau, or data collection facility;

(2) impose a fine on the non-compliant medical creditor or medical debt collector, not to exceed $5,000;

(3) order the non-compliant medical creditor or medical debt collector to pay a reasonable counsel fee in connection with an individual who has suffered damage as a result of an attempt to collect a debt or damage to credit rating due to the reporting of a debt to a collection or credit reporting agency, bureau, or data collection facility;

(4) order the non-compliant medical creditor or medical debt collector to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of [1]⟦a claimant⟧ an individual[1], with a showing made to the court of the efforts made in that regard; and

(5) order the non-compliant medical creditor or medical debt collector to pay an award of damages to the individual not to exceed 25 percent of the debt attempted to be collected or reported by the non-compliant medical creditor or medical debt collector to the collection or credit reporting agency, bureau, or data collection facility, the minimum award being $350.

h. [1]Notwithstanding the provisions of this section to the contrary, a medical creditor may take legal action against an individual:

(1) in the event that an insurance carrier or other third party has issued a payment directly to the individual for health care services delivered by the medical creditor; or

(2) to collect any cost-sharing that is owed to the medical creditor pursuant to an agreement with an insurance carrier or other third party.

Any legal action taken pursuant to this subsection shall not seek to collect an amount greater than the cost-sharing that is owed to the medical creditor or the payment issued by the carrier or third party to the individual.

i.[1] As used in this section:

"Medical creditor" means an entity that provides health care services and to whom the [1]**[**consumer**]** individual[1] owes money for health care services, or the entity that provided health care services and to whom the [1]**[**consumer**]** individual[1] previously owed money if the medical debt has been purchased by a debt buyer.

[1]"Medical debt" means money owed for health care services provided to an individual. Medical debt shall not include money owed for services provided to an animal.[1]

"Medical debt buyer" means a person or entity that is engaged in the business of purchasing medical debts for collection purposes, whether it collects the debt itself or hires a third party for collection or an attorney-at-law for litigation in order to collect such debt.

"Medical debt collector" means any person that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due or asserted to be owed or due another. A medical debt buyer is considered to be a medical debt collector for all purposes.

[1]**[**5.**]** 4.[1] (New section) a. During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, the State Medicaid and NJ FamilyCare programs shall provide coverage and payment for expenses incurred in the treatment of coronavirus disease 2019, provided that a licensed [1]**[**medical practitioner**]** health care professional[1] licensed in accordance with the provisions of Title 45 of the Revised Statutes, or otherwise authorized to provide health care services in this State, has issued a medical order for that treatment.

b. The coverage shall be provided to the same extent as for any other health care services, except that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

c. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

[1]**[**6.**]** 5.[1] (New section) a. During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, a carrier that offers a health benefits plan in this State shall provide coverage and payment for expenses incurred in the treatment of coronavirus disease 2019, provided that a health care professional licensed in accordance with the provisions of Title 45 of the Revised Statutes, or otherwise authorized to provide health care services in this State, has issued a medical order for the treatment.

b. (1) The coverage shall be provided to the same extent as for any other health care services under the health benefits plan, except

that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

(2) In the case of a high deductible health plan, benefits for treatment of coronavirus disease 2019 shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

c. As used in this section, "carrier," means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State, and shall include the State Health Benefits Program and the School Employees' Health Benefits Program.

[1][7.]**]** 6.**[1]** Section 1 of P.L.2020, c.7 is amended to read as follows:

1. a. During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, the State Medicaid and NJ FamilyCare programs shall provide coverage and payment for expenses incurred in:

(1) the testing for coronavirus disease 2019, provided that a licensed **[1]**[medical practitioner]**]** health care professional**[1]** licensed in accordance with the provisions of Title 45 of the Revised Statutes, or otherwise authorized to provide health care services in this State, has issued a medical order for that testing; and

(2) the delivery of health care services through telemedicine or telehealth in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

b. The coverage shall be provided to the same extent as for any other health care services, except that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

c. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

[1][8.]**]** 7.**[1]** Section 2 of P.L.2020, c.7 is amended to read as follows:

2. a. During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, a carrier that offers a health benefits plan in this State shall provide coverage and payment for expenses incurred in:

(1) the testing of coronavirus disease 2019, provided that a health care professional licensed in accordance with the provisions of **[**P.L.2017, c.117 (C.45:1-61 et al.)**]** Title 45 of the Revised Statutes, or otherwise authorized to provide health care services in this State, has issued a medical order for the testing; and

(2) any health care services delivered to a covered person through telemedicine or telehealth in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

b. The coverage shall be provided to the same extent as for any other health care services under the health benefits plan, except that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

c. As used in this section, "carrier," means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State, and shall include the State Health Benefits Program and the School Employees' Health Benefits Program.

[1][9.]** 8.[1]** (New section) a. (1) Notwithstanding any other law to the contrary, whenever the Governor declares a public health emergency pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, during that declared emergency the Governor may issue an executive order precluding the issuance of **[1]**new**[1]** executions or other post-judgment process set forth in chapters 17 and 18 of Title 2A of the New Jersey Statutes used to enforce a judgment recovered in, or enforce an order for the payment of money issued by, the Superior Court, Law Division, including the Special Civil Part of the Law Division, but not including **[1]**any new executions or other post-judgment process to enforce a judgment or order on a landlord-tenant matter instituted in or transferred to the Special Civil Part, and not including**[1]** any **[1]**new**[1]** executions or other post-judgment process to enforce a judgment or order on a matter that, pursuant to the Rules of Court, was instituted in or transferred to the Superior Court, Chancery Division, Family Part, and subsequently transferred to the Superior Court, Law Division, for any judgment or order entered before, on, or after the day the executive order is issued. **[1]**[This]** The**[1]** executive order shall remain in effect for no longer than **[1]**[60]** 90**[1]** days following the declared end to the emergency.

(2) **[1]**(a)**[1]** With respect to any executive order issued by the Governor pursuant to paragraph (1) of this subsection relating to the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic, that executive order shall apply retroactively to any judgment or order described in that paragraph that was entered on or after the date the emergency was declared in Executive Order 103 of 2020, for which an execution or other post-judgment process has not been issued as of the day the executive order is issued **[1]**, but shall not apply to any judgment or order described in that paragraph on a landlord-tenant matter instituted in**

or transferred to the Superior Court, Law Division, Special Civil Part that would result in removal of a person from a residential property that is prohibited by Executive Order 106 of 2020 issued pursuant to P.L.2020, c.1 (C.2A:18-59.3).

(b) With respect to any subsequent executive order issued by the Governor pursuant to paragraph (1) of this subsection, that executive order shall not apply to any judgment or order described in that paragraph on a landlord-tenant matter instituted in or transferred to the Superior Court, Law Division, Special Civil Part that would result in removal of a person from a residential property that is prohibited by a subsequent executive order issued pursuant to P.L.2020, c.1 (C.2A:18-59.3) or other applicable law[1].

b. Proceedings on an execution or other post-judgment process used to enforce a judgment recovered in, or enforce an order for the payment of money issued by, the Superior Court, Law Division, including the Special Civil Part of the Law Division, may be continued while the executive order issued pursuant to subsection a. of this section remains in effect, unless a court of competent jurisdiction determines on its own motion, or motion of any party, that enforcement should be stayed in the interest of justice.

c. Sheriffs, Special Civil Part Officers, and their agents shall refrain from acting on any newly issued execution or other post-judgment process as described in subsections a. and b. of this section, unless a court of competent jurisdiction determines on its own motion, or motion of any party, that enforcement is necessary in the interest of justice.

[1][**[**10.**]** 9.[1] N.J.S.2A:17-19 is amended to read as follows:

2A:17-19. a. Goods and chattels, shares of stock or interests in any corporation and, except as otherwise provided herein, personal property of every kind, not exceeding in value, exclusive of wearing apparel, $1,000.00, and all wearing apparel, [1][**[**and all governmental financial assistance provided in response to the Public Health Emergency and State of Emergency declared by Executive Order No. 103 of 2020 concerning the coronavirus disease 2019 pandemic and any related federal emergency declaration pursuant to federal law concerning that same pandemic,**]**[1] the property of a debtor shall be reserved, both before and after his death, for his use or that of his family or his estate, and shall not be liable to be seized or taken by virtue of any execution or civil process whatever, issued out of any court of this State.

b. (1) All governmental financial assistance provided in response to the Public Health Emergency and State of Emergency declared by Executive Order No. 103 of 2020 concerning the coronavirus disease 2019 pandemic and any related federal emergency declaration pursuant to federal law concerning that same pandemic, the property of a debtor shall be reserved, both before and after his death, for his use or that of his family or his estate, and

shall not be liable to be seized or taken by virtue of any execution or civil process whatever, issued out of any court of this State, except as set forth in paragraph (2) of this subsection.

(2) All governmental financial assistance described in paragraph (1) of this subsection may be seized or taken by virtue of any execution or civil process whatever, issued out of any court of this State, with respect to any matter that, pursuant to the Rules of Court, was instituted in or transferred to the Superior Court, Chancery Division, Family Part.

c. Nothing herein contained shall be deemed or held to protect from sale under execution or other process any goods, chattels or property, for the purchase whereof the debt or demand for which the judgment on which such execution or process was issued, shall have been contracted, or to apply to process issued for the collection of taxes or assessments.

(cf: P.L.1973, c.162, s.1)

[1][11.]** 10.[1]** (New section) If any provision of this act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act shall be severable.

[1][12.]** 11.[1]** (New section) This act shall be known and may be cited as the "COVID-19 Financial Security for Consumers Act."

[1][13.]** 12.[1]** This act shall take effect immediately. Sections **[1]**[5]** 4[1]** through **[1]**[8]** 7[1]** of this act shall apply to all health benefits plans currently in effect in the State, or that are delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act.