

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3908

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2020

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 3908.

This bill, the “COVID-19 Financial Security for Consumers Act,” concerns financial security relating to the coronavirus disease 2019 pandemic, and certain future financial security caused by medical debt and future declared emergencies.

Consumer reporting agencies

As amended, sections 1 and 2 of the bill require consumer reporting agencies to provide certain protections to people who have experienced financial hardship as a result of the coronavirus disease 2019 pandemic.

As used in the bill, “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 90 days following the end of that public health emergency and state of emergency or extending until December 1, 2020, whichever date is sooner.

The bill provides that an affected person may contact any consumer reporting agency and inform the agency that the person has experienced a loss of income as a result of the coronavirus disease 2019 pandemic.

Any consumer reporting agency that receives such a request from an affected person is required to respond to the affected person within five days of receiving the request. The bill requires the agency to place an alert in the file of that consumer indicating the consumer has been impacted by the coronavirus disease 2019 pandemic, and to provide that alert in any consumer report or credit score provided by the agency.

The bill provides that no user of a consumer report may 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 the bill, or who has an alert included in the person's consumer report.

The bill provides that 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.

The bill requires a user of a consumer report that receives a request from an affected person to respond to the affected person within five days of receiving the request.

The bill provides that no charge may be imposed by a consumer reporting agency with respect to a request made by a consumer.

The bill provides that no person may 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 the bill.

Medical creditors and medical debt collectors

As amended, section 3 of the bill prohibits, until 180 days after the first bill for a medical debt has been sent, medical creditors and medical debt collectors from taking 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.

At least 30 days before taking legal action against an individual, a medical creditor or medical debt collector is required to 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.

The bill prohibits medical creditors and medical debt collectors from taking legal action unless the action is described in the creditor's or collector's billing and collections policy.

The bill prohibits medical creditors and medical debt collectors from selling 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 the medical debt buyer shall comply with the requirements of the bill, 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.

The bill provides that, during the one year period beginning on the date when an individual is first given a bill for medical debt, no medical creditor or medical debt collector may communicate with or report any information to a consumer reporting agency regarding the medical debt.

After the one year period has elapsed, a medical creditor or medical debt collector is required to give an individual 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.

The bill provides that a debtor or the Attorney General may bring an action alleging a medical creditor or medical debt collector has violated the provisions of the bill.

The bill provides that the limitations on collection of medical debt under the bill do not apply to medical creditors in certain situations. Specifically, a medical creditor may take legal action against an individual 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 to collect any cost-sharing that is owed to the medical creditor pursuant to an agreement with an insurance carrier or other third party.

Health benefits coverage for treatment of coronavirus disease 2019

As amended, sections 4 through 7 of the bill require health insurance carriers (health, hospital and medical service corporations, health maintenance organizations and insurance companies), as well as the State and School Employees' Health Benefits Programs and the State Medicaid program, to provide coverage 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 that treatment.

These requirements of the bill remain in effect during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020.

The bill requires the coverage to be provided to the same extent as for any other services under the health benefits plan, except that no cost-sharing may be imposed on the coverage provided pursuant to the bill.

The bill takes effect immediately and applies to all health benefit 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 the bill.

The bill also amends P.L.2020, c.7, to clarify that carriers and the State Medicaid program are required to provide coverage for the testing 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 testing.

Temporary cessation of certain activities for enforcing certain court judgments or orders

As amended, sections 8 and 9 of the bill provide that, whenever a public health emergency or state of emergency is declared by the Governor, during that declared emergency the Governor, by executive order, could preclude the issuance of new 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. This action would preclude such enforcement activities as bank levies, wage garnishments, and other means for a judgment-creditor to collect monies owed; however, the executive order would not apply to:

(1) any 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, with certain exceptions preserving the temporary cessation on enforcing an eviction or other removal action as set forth in Executive Order 106 of 2020 that was issued pursuant to P.L.2020, c.1 (C.2A:18-59.3); or

(2) any 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 (commonly referred to as “family court”), and subsequently transferred to the Superior Court, Law Division.

The executive order precluding activities would apply to any judgment or order entered before, on, or after the day the executive order was issued, except as described above concerning certain landlord-tenant and all family court matters. Additionally, with respect to any executive order issued by the Governor precluding activities in relation 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 would apply retroactively to any judgment or order not addressing family court matters entered on or after March 9, 2020, the date the emergency was declared in Executive Order 103

of 2020, for which an execution or post-judgment process was not already issued.

An executive order issued pursuant to the bill would remain in effect for no longer than 90 days following the declared end to the emergency.

Proceedings on an execution or other post-judgment process used to enforce a judgment, or enforce an order for the payment of money, could be continued while the Governor's executive order remained 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. Also, sheriffs, Special Civil Part Officers, and their agents would be required to refrain from acting on any newly issued execution or other post-judgment process that fell within the scope of the executive order. However, a court of competent jurisdiction could determine on its own motion, or motion of any party, that enforcement of such execution or other post-judgment is necessary in the interest of justice.

Lastly, for any future execution or other post-judgment process used to enforce a judgment or order for the payment of money, the bill would create an exemption from execution, levy, or attachment all governmental financial assistance provided in response to the 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; however, the bill would not preclude future 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. As such, this financial assistance could not be obtained by a judgment-creditor, except when related to actions on family court matters, utilizing an issued execution or other post-judgment process when attempting to enforce a judgment or order for the payment of money.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) Revise definitions used in sections 1 and 2 of the bill to define "affected person" as a person who is a resident of this State and has suffered a loss of income as a result of the coronavirus disease 2019 pandemic, and to provide that the "covered coronavirus period" shall end 90 days after the end of Executive Order 103 of 2020, or on December 1, 2020, whichever is sooner.

(2) Remove requirements in the bill that require consumer reporting agencies to report certain information to the Division of Consumer Affairs in the Department of Law and Public Safety.

(3) Delete section 3 of the bill, which removes the bill's limitations on creditors and debt collectors during the covered coronavirus period.

(4) Provide that the limitations on collection of medical debt under the bill do not apply to medical creditors in certain situations. Specifically, the amendments allow a medical creditor to take legal action against an individual 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 to collect any cost-sharing that is owed to the medical creditor pursuant to an agreement with an insurance carrier or other third party.

(5) Provide that the limitations on collection of medical debt under the bill do not apply to debts owed for services provided to animals.

(6) Clarify that the State Medicaid and NJ FamilyCare programs are required to provide coverage and payment for expenses incurred in the treatment or testing of coronavirus disease 2019, provided that a licensed 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 that treatment.

(7) Provide that, the Governor, by executive order, may preclude the issuance of certain new executions or other post-judgment process used to enforce a judgment or order for the payment of money, not including any landlord-tenant matters instituted in or transferred to the Special Civil Part, with certain exceptions.

(8) Make technical amendments to the bill.