

[First Reprint]
SENATE, No. 2330

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 9, 2020

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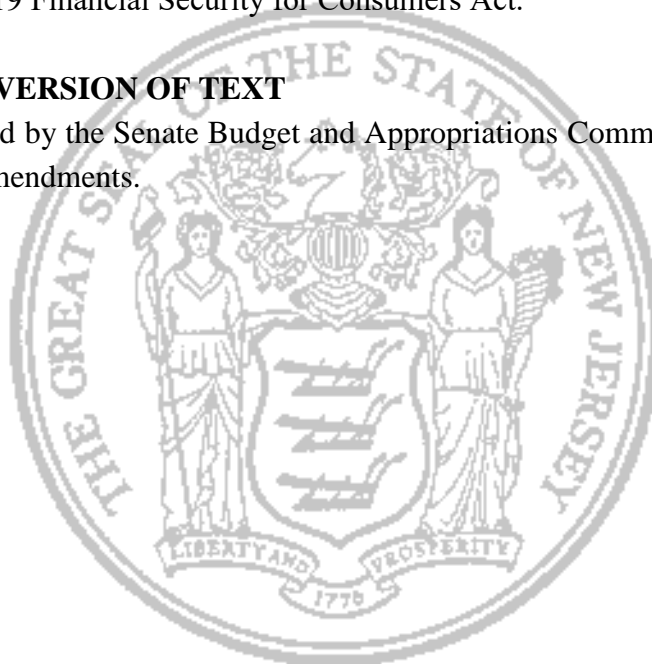
Senators Addiego and Cruz-Perez

SYNOPSIS

“COVID-19 Financial Security for Consumers Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on May 7, 2020, with amendments.



(Sponsorship Updated As Of: 5/7/2020)

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

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. (New section) As used in sections 1¹**【,】** and¹ 2¹**【, and 3】**¹ of
 9 this act:

10 “Affected person” means a person who is a resident of this State
 11 and has suffered ¹**【financial hardship】** a loss of income¹ as a result
 12 of the coronavirus disease 2019 pandemic.

13 “Covered coronavirus period” means the period beginning with the
 14 Public Health Emergency and State of Emergency declared by the
 15 Governor in Executive Order 103 of 2020 and extending ¹**【120】** 90¹
 16 days following the end of that public health emergency and state of
 17 emergency ¹, or extending until December 1, 2020, whichever date is
 18 sooner¹.

19 ¹**【“Creditor”** means any person and any agent, servant,
 20 employee, or attorney of a person engaged in collecting a debt owed
 21 or alleged to be owed to the person by a debtor and shall also
 22 include a buyer of delinquent debt who hires a third party or an
 23 attorney to collect a debt. A person shall not be deemed to be
 24 engaged in collecting a debt, if the person’s activities are solely for
 25 the purpose of serving legal process on another person in
 26 connection with the judicial enforcement of a debt.

27 “Debt collector” means any person or business whose principal
 28 purpose is the collection of a debt, or who regularly collects or
 29 attempts to collect, directly or indirectly, a debt owed or due or
 30 asserted to be owed or due another. The term debt collector shall
 31 also include any person who buys or acquires debt that is in default
 32 at the time of purchase or acquisition and who seeks to collect that
 33 debt. The term debt collector shall include a creditor who, in the
 34 process of collecting the creditor’s own debt, uses any name other
 35 than the creditor’s own name which would indicate that a third
 36 person is collecting or attempting to collect the debt. The term debt
 37 collector shall also include a person in a business the principal
 38 purpose of which is the enforcement of security interests.**】**¹

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

42
 43 2. (New section) a. (1) An affected person may contact any
 44 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:

¹Senate SBA committee amendments adopted May 7, 2020.

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

3 (2) Any consumer reporting agency that receives a request
4 pursuant to paragraph (1) of this subsection shall respond to the
5 affected person ¹【and the Director of the Division of Consumer
6 Affairs in the Department of Law and Public Safety】¹ within five
7 days of receiving the request. The agency shall place an alert in the
8 file of that ¹【consumer】 affected person¹ indicating the
9 ¹【consumer】 affected person¹ has been impacted by the coronavirus
10 disease 2019 pandemic and shall provide that alert in any consumer
11 report or credit score provided by the agency.

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

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

23 (3) Any user of a consumer report that receives a request
24 pursuant to paragraph (2) of this subsection shall respond to the
25 affected person ¹【and the Director of the Division of Consumer
26 Affairs in the Department of Law and Public Safety】¹ within five
27 days of receiving the request.

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

31 d. No person shall create, implement, or revise a credit scoring
32 model that would treat as a negative factor or value any adverse
33 information reported during the covered coronavirus period if the
34 consumer's file or report includes an alert pursuant to paragraph
35 ¹【(3)】 (2)¹ of subsection a. of this section.

36
37 ¹【3. (New section) a. Except as otherwise provided in
38 subsection d. of this section, with respect to the covered coronavirus
39 period, no creditor or debt collector shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7
8 ¹【4.】 3.¹ (New section)a. ¹【Until】 Except as provided in
9 subsection h. of this section, until¹ 180 days after the first bill for a
10 medical debt has been sent, no medical creditor or medical debt
11 collector shall take any legal action against an individual, including
12 but not limited to, placing a lien on an individual's property;
13 attaching or seizing an individual's bank account or any other
14 personal property; commencing a civil action against an individual;
15 or garnishing an individual's wages.

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

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

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

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

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

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

38 e. During the one year period beginning on the date when ¹【a
39 consumer】 an individual¹ is first given a bill for medical debt, no
40 medical creditor or medical debt collector shall communicate with
41 or report any information to a consumer reporting agency regarding
42 the medical debt.

43 f. After the one year period described in subsection e. of this
44 section has elapsed, a medical creditor or medical debt collector
45 shall give ¹【a consumer】 an individual¹ at least one additional bill
46 before reporting a medical debt to a consumer reporting agency.
47 The amount reported to the consumer reporting agency shall be the

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

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

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

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

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

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

27 (5) order the non-compliant medical creditor or medical debt
28 collector to pay an award of damages to the individual not to exceed
29 25 percent of the debt attempted to be collected or reported by the
30 non-compliant medical creditor or medical debt collector to the
31 collection or credit reporting agency, bureau, or data collection
32 facility, the minimum award being \$350.

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

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

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

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

44 i.¹ As used in this section:

45 "Medical creditor" means an entity that provides health care
46 services and to whom the ¹**["consumer"] individual**¹ owes money for
47 health care services, or the entity that provided health care services

1 and to whom the ¹**consumer** individual¹ previously owed money
2 if the medical debt has been purchased by a debt buyer.

3 ¹“Medical debt” means money owed for health care services
4 provided to an individual. Medical debt shall not include money
5 owed for services provided to an animal.¹

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

10 “Medical debt collector” means any person that regularly collects
11 or attempts to collect, directly or indirectly, medical debts originally
12 owed or due or asserted to be owed or due another. A medical debt
13 buyer is considered to be a medical debt collector for all purposes.
14

15 ¹**[5.] 4.**¹ (New section) a. During the Public Health
16 Emergency and State of Emergency declared by the Governor in
17 Executive Order 103 of 2020, the State Medicaid and NJ
18 FamilyCare programs shall provide coverage and payment for
19 expenses incurred in the treatment of coronavirus disease 2019,
20 provided that a licensed ¹**medical practitioner** health care
21 professional¹ licensed in accordance with the provisions of Title 45
22 of the Revised Statutes, or otherwise authorized to provide health
23 care services in this State, has issued a medical order for that
24 treatment.

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

28 c. The Commissioner of Human Services shall apply for such
29 State plan amendments or waivers as may be necessary to
30 implement the provisions of this act and to secure federal financial
31 participation for State Medicaid expenditures under the federal
32 Medicaid program.
33

34 ¹**[6.] 5.**¹ (New section) a. During the Public Health Emergency
35 and State of Emergency declared by the Governor in Executive
36 Order 103 of 2020, a carrier that offers a health benefits plan in this
37 State shall provide coverage and payment for expenses incurred in
38 the treatment of coronavirus disease 2019, provided that a health
39 care professional licensed in accordance with the provisions of Title
40 45 of the Revised Statutes, or otherwise authorized to provide
41 health care services in this State, has issued a medical order for the
42 treatment.

43 b. (1) The coverage shall be provided to the same extent as
44 for any other health care services under the health benefits plan,
45 except that no cost-sharing shall be imposed on the coverage
46 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 professional¹ 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

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

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

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

14
15 ¹~~9.1~~ ^{8.1} (New section) a. (1) Notwithstanding any other law to
16 the contrary, whenever the Governor declares a public health
17 emergency pursuant to the “Emergency Health Powers Act,” P.L.2005,
18 c.222 (C.26:13-1 et seq.), or a state of emergency pursuant to
19 P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, during that declared
20 emergency the Governor may issue an executive order precluding the
21 issuance of ¹new¹ executions or other post-judgment process set forth
22 in chapters 17 and 18 of Title 2A of the New Jersey Statutes used to
23 enforce a judgment recovered in, or enforce an order for the payment
24 of money issued by, the Superior Court, Law Division, including the
25 Special Civil Part of the Law Division, but not including ¹any new
26 executions or other post-judgment process to enforce a judgment or
27 order on a landlord-tenant matter instituted in or transferred to the
28 Special Civil Part, and not including¹ any ¹new¹ executions or other
29 post-judgment process to enforce a judgment or order on a matter that,
30 pursuant to the Rules of Court, was instituted in or transferred to the
31 Superior Court, Chancery Division, Family Part, and subsequently
32 transferred to the Superior Court, Law Division, for any judgment or
33 order entered before, on, or after the day the executive order is issued.
34 ¹~~This~~ ¹The¹ executive order shall remain in effect for no longer than
35 ¹~~60~~ ⁹⁰¹ days following the declared end to the emergency.

36 (2) ¹(a)¹ With respect to any executive order issued by the
37 Governor pursuant to paragraph (1) of this subsection relating to the
38 Public Health Emergency and State of Emergency declared by the
39 Governor in Executive Order 103 of 2020 concerning the coronavirus
40 disease 2019 pandemic, that executive order shall apply retroactively
41 to any judgment or order described in that paragraph that was entered
42 on or after the date the emergency was declared in Executive Order
43 103 of 2020, for which an execution or other post-judgment process
44 has not been issued as of the day the executive order is issued ¹, but
45 shall not apply to any judgment or order described in that paragraph on
46 a landlord-tenant matter instituted in or transferred to the Superior
47 Court, Law Division, Special Civil Part that would result in removal of

1 a person from a residential property that is prohibited by Executive
2 Order 106 of 2020 issued pursuant to P.L.2020, c.1 (C.2A:18-59.3).

3 (b) With respect to any subsequent executive order issued by the
4 Governor pursuant to paragraph (1) of this subsection, that executive
5 order shall not apply to any judgment or order described in that
6 paragraph on a landlord-tenant matter instituted in or transferred to the
7 Superior Court, Law Division, Special Civil Part that would result in
8 removal of a person from a residential property that is prohibited by a
9 subsequent executive order issued pursuant to P.L.2020, c.1 (C.2A:18-
10 59.3) or other applicable law¹.

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

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

25
26 ¹**10.9.**¹ N.J.S.2A:17-19 is amended to read as follows:

27 2A:17-19. a. Goods and chattels, shares of stock or interests in
28 any corporation and, except as otherwise provided herein, personal
29 property of every kind, not exceeding in value, exclusive of wearing
30 apparel, \$1,000.00, and all wearing apparel, ¹**[and all governmental**
31 financial assistance provided in response to the Public Health
32 Emergency and State of Emergency declared by Executive Order No.
33 103 of 2020 concerning the coronavirus disease 2019 pandemic and
34 any related federal emergency declaration pursuant to federal law
35 concerning that same pandemic,]¹ the property of a debtor shall be
36 reserved, both before and after his death, for his use or that of his
37 family or his estate, and shall not be liable to be seized or taken by
38 virtue of any execution or civil process whatever, issued out of any
39 court of this State.

40 b. (1) All governmental financial assistance provided in response
41 to the Public Health Emergency and State of Emergency declared by
42 Executive Order No. 103 of 2020 concerning the coronavirus disease
43 2019 pandemic and any related federal emergency declaration
44 pursuant to federal law concerning that same pandemic, the property
45 of a debtor shall be reserved, both before and after his death, for his
46 use or that of his family or his estate, and shall not be liable to be
47 seized or taken by virtue of any execution or civil process whatever,

1 issued out of any court of this State, except as set forth in paragraph
2 (2) of this subsection.

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

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

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

16

17 ¹~~11.10.~~¹ (New section) If any provision of this act or its
18 application to any person or circumstances is held invalid, the
19 invalidity shall not affect other provisions or applications of this act
20 which can be given effect without the invalid provision or
21 application, and to this end the provisions of this act shall be
22 severable.

23

24 ¹~~12.11.~~¹ (New section) This act shall be known and may be
25 cited as the “COVID-19 Financial Security for Consumers Act.”

26

27 ¹~~13.12.~~¹ This act shall take effect immediately. Sections ¹~~5~~
28 ⁴~~1~~ through ¹~~8~~ ⁷~~1~~ of this act shall apply to all health benefits plans
29 currently in effect in the State, or that are delivered, issued, executed
30 or renewed in this State, or approved for issuance or renewal in this
31 State by the Commissioner of Banking and Insurance, on or after the
32 effective date of this act.