

SENATE AMENDMENTS
(Proposed by Senator POU)

to

SENATE, No. 2330
(Sponsored by Senator POU)

REPLACE SECTION 1 TO READ:

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

“Affected person” means a person who is a resident of this State and has suffered financial hardship 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 120 days following the end of that public health emergency and state of emergency.

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).

REPLACE SECTION 2 TO READ:

2. (New section) a. (1) An affected person may contact any consumer reporting agency and inform the agency that the person 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 and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety within five days of receiving the request. The agency shall place an alert in the file of that consumer indicating the consumer 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 ~~'[(3)]~~ (2)' 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 and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety 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 ~~'[(3)]~~ (2)' of subsection a. of this section.

OMIT SECTION 3 IN ITS ENTIRETY

REPLACE SECTION 4 TO READ:

~~'[4.]~~ 3.¹ (New section) a. ~~'[Until]~~ Except as provided in subsection h. of this section, until 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 a consumer 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 a consumer 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 consumer the notice required by 15 U.S.C. s.1692g before reporting a debt to a consumer reporting agency.

g. A debtor 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 a claimant, 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. 'Notwithstanding the provisions of this section to the contrary, 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. Any legal action taken pursuant to this subsection shall not seek to collect an amount greater than 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 consumer owes money for health care services, or the entity that provided health care services and to whom the consumer previously owed money if the medical debt has been purchased by a debt buyer.

“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.

RENUMBER SECTIONS 5 THROUGH 12 AS SECTIONS 4 THROUGH 11

REPLACE SECTION 13 TO READ:

'[13.] 12.'¹ This act shall take effect immediately. Sections '[5] 4' through '[8] 7' 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.