To protect stimulus checks from garnishment and fees and from being used as an offset by a credit union or depository institution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2020

Mr. Meeks (for himself, Ms. Pressley, and Ms. Waters) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To protect stimulus checks from garnishment and fees and from being used as an offset by a credit union or depository institution, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act have been cited as the “Protect our Checks Act of 2020”.

SEC. 2. PROTECTING STIMULUS CHECKS FROM GARNISHMENT AND FEES.

(a) Protection of 2020 Recovery Rebates.—
(1) IN GENERAL.—Section 2201(d) of the CARES Act (Public Law 116–136) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), and by moving such subparagraphs 2 ems to the right;

(B) in the heading, by striking “REDUCTION OR OFFSET” and inserting “REDUCTION, OFFSET, GARNISHMENT, ETC.”;

(C) by striking “Any credit” and inserting the following:

“(1) IN GENERAL.—Any credit”;

(D) by adding at the end the following new paragraphs:

“(2) ASSIGNMENT OF BENEFITS.—

“(A) IN GENERAL.—The right of any person to any applicable payment shall not be transferable or assignable, at law or in equity, and no applicable payment shall be subject to execution, levy, attachment, garnishment, or other legal process or the operation of any bankruptcy or insolvency law.

“(B) ENCODING OF PAYMENTS.—As soon as practicable, in the case of an applicable payment that is paid electronically by direct deposit
through the Automated Clearing House (ACH) network, the Secretary of the Treasury shall issue the payment using a unique identifier that is reasonably sufficient to allow a financial institution to identify the payment as a payment protected under subparagraph (A). The Secretary shall further encode the payment pursuant to the same specifications as required for a benefit payment (as defined in section 212.3 of section 31, Code of Federal Regulations).

“(C) GARNISHMENT.—

“(i) ENCODED PAYMENTS.—Upon receipt of a garnishment order that applies to an account that has received an applicable payment that is encoded as provided in subparagraph (B), a financial institution shall follow the requirements and procedures set forth in part 212 of title 31, Code of Federal Regulations, except a financial institution shall not, with regard to any applicable payment, be required to provide the notice referenced in section 212.6 or 212.7 of such title 31. This paragraph shall not alter the status of payments as tax refunds or other nonbenefit
payments for purpose of any reclamation rights of the Department of Treasury or the Internal Revenue Service as per part 210 of such title 31.

“(ii) OTHER PAYMENTS.—If a financial institution receives a garnishment order, other than an order that has been served by the United States, that applies to an account into which an applicable payment that has not been encoded as provided in subparagraph (B) has been deposited electronically or by check on any date in the lookback period, the financial institution, upon the request of the account holder, shall treat the amount of the funds in the account at the time of the request, up to the amount of the applicable payment, as exempt under law from a garnishment order without requiring the consent of the party serving the garnishment order or the judgment creditor.

“(iii) LIABILITY.—A financial institution that acts in good faith in reliance on clause (i) or (ii) shall not be subject to liability or regulatory action under any Fed-
eral or State law, regulation, court or other
order, or regulatory interpretation for ac-
tions concerning any applicable payments.

“(D) DEFINITIONS.—For purposes of this
paragraph:

“(i) ACCOUNT HOLDER.—The term
‘account holder’ means a natural person
whose name appears in a financial institu-
tion’s records as the direct or beneficial
owner of an account.

“(ii) ACCOUNT REVIEW.—The term
‘account review’ means the process of ex-
amining deposits in an account to deter-
mine if an applicable payment has been de-
posited into the account during the
lookback period. A financial institution
shall perform an account review following
the procedures outlined in section 212.5 of
title 31, Code of Federal Regulations, and
in accordance with the requirements of sec-
tion 212.6 of such title 31.

“(iii) APPLICABLE PAYMENT.—The
term ‘applicable payment’ means any pay-
ment of credit or refund by reason of sec-
tion 6428 of the Internal Revenue Code of 1986 or subsection (e).

“(iv) GARNISHMENT.—The term ‘garnishment’ means execution, levy, attachment, garnishment, or other legal process.

“(v) GARNISHMENT ORDER.—The term ‘garnishment order’ means a writ, order, notice, summons, judgment, levy, or similar written instruction issued by a court, a State or State agency, or a municipality or municipal corporation to effect a garnishment against a debtor.

“(vi) LOOKBACK PERIOD.—The term ‘lookback period’ means the two month period that begins on the date preceding the date of an account review and ends on the corresponding date of the month two months earlier, or on the last date of the month two months earlier if the corresponding date does not exist.”.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Section 2201(d)(2) of the CARES Act, as added by subsection (a), shall take effect upon enactment.
(B) EXCEPTION.—Notwithstanding paragraph (1), clauses (i) and (ii) of section 2201(d)(2)(C) of the CARES Act, as added by subsection (a), shall take effect after the end of the 10-day period beginning on the date of enactment of this Act.

(b) PROHIBITION ON USE OF COVID-19 STIMULUS PAYMENTS AS OFFSET BY CREDIT UNIONS AND DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—A credit union or depository institution may not offset or seize a COVID–19 stimulus payment to pay any amount due, or allegedly due, to the credit union or depository institution.

(2) ENCODING OF PAYMENTS.—As soon as practicable, in the case of a COVID–19 stimulus payment that is paid electronically by direct deposit through the Automated Clearing House (ACH) network, the Secretary of the Treasury shall issue a COVID–19 stimulus payment using a unique identifier that is reasonably sufficient to allow a credit union or depository institution to identify the payment as a payment protected under paragraph (1).

(3) DEFINITIONS.—In this subsection:
(A) COVID–19 stimulus payment.—The term “COVID–19 stimulus payment” means any payment made pursuant to section 6428 of the Internal Revenue Code of 1986 or section 2201(c) of the CARES Act.

(B) Credit union.—The term “credit union” means a Federal credit union and a State credit union, as such terms are defined, respectively, under section 101 of the Federal Credit Union Act.

(C) Depository institution.—The term “depository institution” has the meaning given that term under section 3 of the Federal Deposit Insurance Act.