

116TH CONGRESS
2D SESSION

H. R. 6361

To provide loan and obligation payment relief for small businesses and nonprofits affected by the COVID–19 emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2020

Mr. PERLMUTTER introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide loan and obligation payment relief for small businesses and nonprofits affected by the COVID–19 emergency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Relief for Small Busi-
5 nesses and Nonprofits Act”.

6 **SEC. 2. LOAN AND OBLIGATION PAYMENT RELIEF FOR AF-**
7 **FFECTED SMALL BUSINESSES AND NON-**
8 **PROFITS.**

9 (a) IN GENERAL.—

1 (1) IN GENERAL.—During the COVID–19
2 emergency, a debt collector may not, with respect to
3 a debt of a small business or nonprofit (other than
4 debt related to a federally related mortgage loan)—

5 (A) capitalize unpaid interest;

6 (B) apply a higher interest rate triggered
7 by the nonpayment of a debt to the debt bal-
8 ance;

9 (C) charge a fee triggered by the non-
10 payment of a debt;

11 (D) sue or threaten to sue for nonpayment
12 of a debt;

13 (E) continue litigation to collect a debt
14 that was initiated before the date of enactment
15 of this section;

16 (F) submit or cause to be submitted a con-
17 fession of judgment to any court;

18 (G) enforce a security interest through re-
19 possession, limitation of use, or foreclosure;

20 (H) take or threaten to take any action to
21 enforce collection, or any adverse action for
22 nonpayment of a debt, or for nonappearance at
23 any hearing relating to a debt;

24 (I) commence or continue any action to
25 cause or to seek to cause the collection of a

1 debt, including pursuant to a court order issued
2 before the end of the 120-day period following
3 the end of the COVID–19 emergency, from
4 wages, Federal benefits, or other amounts due
5 to a small business or nonprofit by way of gar-
6 nishment, deduction, offset, or other seizure;

7 (J) cause or seek to cause the collection of
8 a debt, including pursuant to a court order
9 issued before the end of the 120-day period fol-
10 lowing the end of the COVID–19 emergency, by
11 levying on funds from a bank account or seizing
12 any other assets of a small business or non-
13 profit;

14 (K) commence or continue an action to
15 evict a small business or nonprofit from real or
16 personal property; or

17 (L) disconnect or terminate service from
18 utility service, including electricity, natural gas,
19 telecommunications or broadband, water, or
20 sewer.

21 (2) RULE OF CONSTRUCTION.—Nothing in this
22 subsection may be construed to prohibit a small
23 business or nonprofit from voluntarily paying, in
24 whole or in part, a debt.

1 (3) REPAYMENT PERIOD.—After the expiration
2 of the COVID–19 emergency, with respect to a debt
3 described under paragraph (1), a debt collector—

4 (A) may not add to the debt balance any
5 interest or fee prohibited by paragraph (1);

6 (B) shall, for credit with a defined term or
7 payment period, extend the time period to repay
8 the debt balance by 1 payment period for each
9 payment that a small business or nonprofit
10 missed during the COVID–19 emergency, with
11 the payments due in the same amounts and at
12 the same intervals as the pre-existing payment
13 schedule;

14 (C) shall, for an open end credit plan (as
15 defined under section 103 of the Truth in
16 Lending Act) or other credit without a defined
17 term, allow the small business or nonprofit to
18 repay the debt balance in a manner that does
19 not exceed the amounts permitted by formulas
20 under section 170(c) of the Truth in Lending
21 Act and regulations promulgated thereunder;
22 and

23 (D) shall, when the small business or non-
24 profit notifies the debt collector, offer reason-
25 able and affordable repayment plans, loan

1 modifications, refinancing, options with a rea-
2 sonable time in which to repay the debt.

3 (4) COMMUNICATIONS IN CONNECTION WITH
4 THE COLLECTION OF A DEBT.—

5 (A) IN GENERAL.—During the COVID–19
6 emergency, without prior consent of a small
7 business or nonprofit given directly to a debt
8 collector during the COVID–19 emergency, or
9 the express permission of a court of competent
10 jurisdiction, a debt collector may only commu-
11 nicate in writing in connection with the collec-
12 tion of any debt (other than debt related to a
13 federally related mortgage loan).

14 (B) REQUIRED DISCLOSURES.—

15 (i) IN GENERAL.—All written commu-
16 nications described under subparagraph
17 (A) shall inform the small business or non-
18 profit that the communication is for infor-
19 mational purposes and is not an attempt to
20 collect a debt.

21 (ii) REQUIREMENTS.—The disclosure
22 required under clause (i) shall be made—

23 (I) in type or lettering not small-
24 er than 14-point bold type;

1 (II) separate from any other dis-
2 closure;

3 (III) in a manner designed to en-
4 sure that the recipient sees the disclo-
5 sure clearly;

6 (IV) in English and Spanish and
7 in any additional languages in which
8 the debt collector communicates, in-
9 cluding the language in which the
10 loan was negotiated, to the extent
11 known by the debt collector; and

12 (V) may be provided by first-
13 class mail or electronically, if the bor-
14 rower has otherwise consented to elec-
15 tronic communication with the debt
16 collector and has not revoked such
17 consent.

18 (iii) ORAL NOTIFICATION.—Any oral
19 notification shall be provided in the lan-
20 guage the debt collector otherwise uses to
21 communicate with the borrower.

22 (iv) WRITTEN TRANSLATIONS.—In
23 providing written notifications in languages
24 other than English in this section, a debt
25 collector may rely on written translations

1 developed by the Bureau of Consumer Fi-
2 nancial Protection.

3 (5) VIOLATIONS.—

4 (A) IN GENERAL.—Any person who vio-
5 lates this section shall be subject to civil liabil-
6 ity in accordance with section 813 of the Fair
7 Debt Collection Practices Act, as if the person
8 is a debt collector for purposes of that section.

9 (B) PREDISPUTE ARBITRATION AGREE-
10 MENTS.—Notwithstanding any other provision
11 of law, no predispute arbitration agreement or
12 predispute joint-action waiver shall be valid or
13 enforceable with respect to a dispute brought
14 under this section, including a dispute as to the
15 applicability of this section, which shall be de-
16 termined under Federal law.

17 (6) TOLLING.—Except as provided in para-
18 graph (7)(D), any applicable time limitations, in-
19 cluding statutes of limitations, related to a debt
20 under Federal or State law shall be tolled during the
21 COVID–19 emergency.

22 (7) CLAIMS OF AFFECTED CREDITORS AND
23 DEBT COLLECTORS.—

24 (A) VALUATION OF PROPERTY.—With re-
25 spect to any action asserting a taking under the

1 Fifth Amendment of the Constitution of the
2 United States as a result of this section or
3 seeking a declaratory judgment regarding the
4 constitutionality of this section, the value of the
5 property alleged to have been taken without
6 just compensation shall be evaluated—

7 (i) with consideration of the likelihood
8 of full and timely payment of the obliga-
9 tion without the actions taken pursuant to
10 this section; and

11 (ii) without consideration of any as-
12 sistance provided directly or indirectly to
13 the small business or nonprofit from other
14 Federal, State, and local government pro-
15 grams instituted or legislation enacted in
16 response to the COVID–19 emergency.

17 (B) SCOPE OF JUST COMPENSATION.—In
18 an action described in subparagraph (A), any
19 assistance or benefit provided directly or indi-
20 rectly to the person from other Federal, State,
21 and local government programs instituted in or
22 legislation enacted response to the COVID–19
23 emergency, shall be deemed to be compensation
24 for the property taken, even if such assistance

1 or benefit is not specifically provided as com-
2 pensation for property taken by this section.

3 (C) APPEALS.—Any appeal from an action
4 under this section shall be treated under section
5 158 of title 28, United States Code, as if it
6 were an appeal in a case under title 11, United
7 States Code.

8 (D) REPOSE.—Any action asserting a tak-
9 ing under the Fifth Amendment to the Con-
10 stitution of the United States as a result of this
11 section shall be brought within not later than
12 180 days after the end of the COVID–19 emer-
13 gency.

14 (8) DEFINITIONS.—In this section:

15 (A) COVID–19 EMERGENCY.—The term
16 “COVID–19 emergency” means the period that
17 begins upon the date of the enactment of this
18 Act and ends on the date of the termination by
19 the Federal Emergency Management Agency of
20 the emergency declared on March 13, 2020, by
21 the President under the Robert T. Stafford Dis-
22 aster Relief and Emergency Assistance Act (42
23 U.S.C. 4121 et seq.) relating to the
24 Coronavirus Disease 2019 (COVID–19) pan-
25 demic.

1 (B) CREDITOR.—The term “creditor”
2 means—

3 (i) any person who offers or extends
4 credit creating a debt or to whom a debt
5 is owed or other obligation for payment;

6 (ii) any lessor of real or personal
7 property; or

8 (iii) any provider of utility services.

9 (C) DEBT.—The term “debt”—

10 (i) means any obligation or alleged ob-
11 ligation—

12 (I) for which the original agree-
13 ment, or if there is no agreement, the
14 original obligation to pay was created
15 before or during the COVID–19 emer-
16 gency, whether or not such obligation
17 has been reduced to judgment; and

18 (II) that arises out of a trans-
19 action with a small business or non-
20 profit; and

21 (ii) does not include a federally re-
22 lated mortgage loan.

23 (D) DEBT COLLECTOR.—The term “debt
24 collector” means a creditor, and any person or
25 entity that engages in the collection of debt, in-

1 including the Federal Government and a State
2 government, irrespective of whether the debt is
3 allegedly owed to or assigned to that person or
4 to the entity.

5 (E) FEDERALLY RELATED MORTGAGE
6 LOAN.—The term “federally related mortgage
7 loan” has the meaning given that term under
8 section 3 of the Real Estate Settlement Proce-
9 dures Act of 1974 (12 U.S.C. 2602).

10 (F) NONPROFIT.—The term “nonprofit”
11 means an organization described in section
12 501(c)(3) of the Internal Revenue Code of 1986
13 and exempt from taxation under section 501(a)
14 of such Code.

15 (G) SMALL BUSINESS.—The term “small
16 business” has the meaning given the term
17 “small business concern” under section 3 of the
18 Small Business Act.

19 (b) CREDIT FACILITY FOR OTHER PURPOSES.—The
20 Board of Governors of the Federal Reserve System shall
21 establish a facility that the Board of Governors shall use
22 to make payments to holders of loans or obligations to
23 compensate such holders for documented financial
24 losses—

1 (1) with respect to a loan or obligation made to
2 an individual, small business, or nonprofit; and

3 (2) where such losses were caused by a suspen-
4 sion of payments required under Federal law in con-
5 nection with the COVID–19 emergency.

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