[DISCUSSION DRAFT]
117TH CONGRESS
1ST SESSION
H. R. ______

To amend the Fair Debt Collection Practices Act to restrict collections of small business and nonprofit debt during a national disaster or emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Fair Debt Collection Practices Act to restrict collections of small business and nonprofit debt during a national disaster or emergency, and for other purposes.

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

SECTION 1. RESTRICTIONS ON COLLECTIONS OF SMALL BUSINESS AND NONPROFIT DEBT DURING A NATIONAL DISASTER OR EMERGENCY.

(a) In general.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended by inserting after section 812 the following:

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§ 812A. Restrictions on collections of small business
and nonprofit debt during a national disaster or emergency

(a) DEFINITIONS.—In this section:

(1) COVERED PERIOD.—The term ‘covered period’ means the period beginning on the date of enactment of this section and ending 120 days after the end of the incident period for the emergency declared on March 13, 2020, by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 4121 et seq.) relating to the Coronavirus Disease 2019 (COVID–19) pandemic.

(2) CREDITOR.—The term ‘creditor’ means any person—

(A) who offers or extends credit creating a debt or to whom a debt is owed; or

(B) to whom any obligation for payment is owed.

(3) DEBT.—The term ‘debt’—

(A) means any obligation or alleged obligation that is or during the covered period becomes past due, other than an obligation arising out of a credit agreement entered into after the effective date of this section, that arises out of a transaction with a consumer; and
“(B) does not include a mortgage loan.

“(4) Debt collector.—The term ‘debt collector’ means a creditor and any other person or entity that engages in the collection of debt, including the Federal Government and a State government, irrespective of whether the applicable debt is allegedly owed to or assigned to such creditor, person, or entity.

“(5) Mortgage loan.—The term ‘mortgage loan’ means a Federally backed mortgage loan (as defined under section 4022 of the CARES Act) and a Federally backed multifamily mortgage loan (as defined under section 4023 of the CARES Act).

“(1) Nonprofit organization.—The term ‘nonprofit organization’ means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code.

“(2) Small business.—The term ‘small business’ has the meaning given the term ‘small business concern’ under section 3 of the Small Business Act (15 U.S.C. 632).

“(b) Prohibitions.—
“(1) IN GENERAL.—Notwithstanding any other provision of law, no debt collector may, during a covered period—

“(A) enforce a security interest securing a debt through repossession, limitation of use, or foreclosure;

“(B) take or threaten to take any action to deprive an individual of their liberty as a result of nonpayment of or nonappearance at any hearing relating to an obligation owed by a small business or nonprofit organization;

“(C) collect any debt, by way of garnishment, attachment, assignment, deduction, offset, or other seizure, from—

“(i) wages, income, benefits, bank, prepaid or other asset accounts; or

“(ii) any assets of, or other amounts due to, a small business or nonprofit organization;

“(D) commence or continue an action to evict a small business or nonprofit organization from real or personal property for nonpayment;

“(E) disconnect or terminate service from a utility service, including electricity, natural
gas, telecommunications or broadband, water, or sewer, for nonpayment; or

“(F) threaten to take any of the foregoing actions.

“(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit a small business or nonprofit organization from voluntarily paying, in whole or in part, a debt.

“(e) LIMITATION ON FEES AND INTEREST.—After the expiration of a covered period, a debt collector may not add to any past due debt any interest on unpaid interest, higher rate of interest triggered by the nonpayment of the debt, or fee triggered prior to the expiration of the covered period by the nonpayment of the debt.

“(e) VIOLATIONS.—Any person or government entity that violates this section shall be liable to the applicable small business or nonprofit organization as provided under section 813, except that, for purposes of applying section 813—

“(1) such person or government entity shall be deemed a debt collector, as such term is defined for purposes of section 813; and

“(2) such small business or nonprofit organization shall be deemed a consumer, as such term is defined for purposes of section 813.
“(f) TOLLING.—Any applicable time limitations for exercising an action prohibited under subsection (b) shall be tolled during a covered period.

“(g) PREDISPUTE ARBITRATION AGREEMENTS.—Notwithstanding any other provision of law, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a dispute brought under this section, including a dispute as to the applicability of this section, which shall be determined under Federal law.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Fair Debt Collection Practices Act is amended by inserting after the item relating to section 812 the following:

“812A. Restrictions on collections of small business and nonprofit debt during a national disaster or emergency.”.

SEC. 2. REPAYMENT PERIOD AND FORBEARANCE FOR SMALL BUSINESSES AND NONPROFIT ORGANIZATIONS.

Section 812A of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.), as added by section 1, is amended—

(1) by inserting after subsection (c) the following:
“(d) REPAYMENT PERIOD.—After the expiration of a covered period, a debt collector shall comply with the following:

“(1) DEBT ARISING FROM CREDIT WITH A DEFINED PAYMENT PERIOD.—For any debt arising from credit with a defined term, the debt collector shall extend the time period to repay any past due balance of the debt by—

“(A) 1 payment period for each payment that a small business or nonprofit organization missed during the covered period, with the payments due in the same amounts and at the same intervals as the pre-existing payment schedule; and

“(B) 1 payment period in addition to the payment periods described under subparagraph (A).

“(2) DEBT ARISING FROM AN OPEN END CREDIT PLAN.—For debt arising from an open end credit plan, as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602), the debt collector shall allow the small business or nonprofit organization to repay the past-due balance in a manner that does not exceed the amounts permitted by the methods described in section 171(c) of the Truth in
Lending Act (15 U.S.C. 1666i–1(c)) and regulations promulgated under that section.

“(3) Debt arising from other credit.—

“(A) In general.—For debt not described under paragraph (2) or (3), the debt collector shall—

“(i) allow the small business or nonprofit organization to repay the past-due balance of the debt in substantially equal payments over time; and

“(ii) provide the small business or nonprofit organization with—

“(I) for past due balances of $2,000 or less, 12 months to repay, or such longer period as the debt collector may allow;

“(II) for past due balances between $2,001 and $5,000, 24 months to repay, or such longer period as the debt collector may allow; or

“(III) for past due balances greater than $5,000, 36 months to repay, or such longer period as the debt collector may allow.
“(B) ADDITIONAL PROTECTIONS.—The Director of the Bureau may issue rules to provide greater repayment protections to small businesses and nonprofit organizations with debts described under subparagraph (A).

“(C) RELATION TO STATE LAW.—This paragraph shall not preempt any State law that provides for greater small business or nonprofit organization protections than this paragraph.”;

and

(2) by adding at the end the following:

“(h) FORBEARANCE FOR AFFECTED SMALL BUSINESSES AND NONPROFIT ORGANIZATIONS.—

“(1) FORBEARANCE PROGRAM.—Each debt collector that makes use of the credit facility described in paragraph (4) shall establish a forbearance program for debts available during the covered period.

“(2) AUTOMATIC GRANT OF FORBEARANCE UPON REQUEST.—Under a forbearance program required under paragraph (1), upon the request of a small business or nonprofit organization experiencing a financial hardship due, directly or indirectly, to COVID–19, the debt collector shall grant a forbearance on payment of debt for such time as needed until the end of the covered period, with no
additional documentation required other than the small business or nonprofit organization’s attestation to a financial hardship caused by COVID–19 and with no fees, penalties, or interest (beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the loan contract) charged to the borrower in connection with the forbearance.

“(3) Exception for certain mortgage loans subject to the CARES Act.—This subsection shall not apply to a mortgage loan subject to section 4022 or 4023 of the CARES Act.”

SEC. 3. CREDIT FACILITY.

Section 812A(h) of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.), as added by section 2, is amended by adding at the end the following:

“(4) Credit facility.—The Board of Governors of the Federal Reserve System shall—

“(A) establish a facility, using amounts made available under section 4003(b)(4) of the CARES Act (15 U.S.C. 9042(b)(4)), to make long-term, low-cost loans to debt collectors to temporarily compensate such debt collectors for documented financial losses caused by forbear-
ance of debt payments under this subsection;
and
“(B) defer debt collectors’ required pay-
ments on such loans until after small businesses
or nonprofit organizations’ debt payments re-
sume.”.