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H.B. 596
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. West

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SUMMARY

- Halts the collection of debt during a covered period relating to the COVID-19 State of Emergency.
- Provides restrictions for how debt that is unpaid during the covered period can be collected after the covered period ends.
- Requires that the method of communication with a consumer or small business regarding the debt during the covered period must be in writing, unless specific consent is provided.
- Provides that any applicable time limitations, including statutes of limitations, related to a debt under Ohio law are tolled during the covered period.
- Declares an emergency.

DETAILED ANALYSIS

General overview

The bill halts the collection of debt during the COVID-19 pandemic. The bill only applies for the temporary “covered period” which is defined in the bill as the period beginning on the bill’s effective date and ending 120 days after the end of the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020. “Debt” under the bill means any obligation or alleged obligation that is or during the covered period becomes past due and both of the following apply:

1. The original agreement, or if there is no agreement the original obligation to pay, was created before the covered period, whether or not the obligation has been reduced to judgment;
2. The obligation or alleged obligation arises out of a transaction with a consumer or a small business.

“Debt” does not include a federally related mortgage loan. Also, it is important to note that a “debt collector” under the bill means a creditor and any person or entity that engages in the collection of debt, including the state government or any state agency, irrespective of whether the debt is allegedly owed to or assigned to that person or entity.¹

Halt of debt collection

Under the bill, during the covered period, a debt collector cannot do any of the following relating to a debt owed by a consumer or small business residing in Ohio:

- Capitalize unpaid interest;
- Apply a higher interest rate triggered by the nonpayment of the debt to the debt balance;
- Charge a fee triggered by the nonpayment of the debt;
- Sue or threaten to sue for nonpayment of a debt;
- Continue litigation to collect a debt that was initiated before the bill’s effective date;
- Submit or cause to be submitted a confession of judgment to any court;
- Enforce a security interest through repossession, limitation of use, or foreclosure;
- Take or threaten to take any action to enforce collection, or any adverse action for nonpayment of a debt, or for nonappearance at any hearing relating to a debt;
- Commence or continue any action to cause or to seek to cause the collection of a debt, including pursuant to a court order issued before the covered period, from wages, state benefits, or other amounts due to a consumer or small business, by way of garnishment, deduction, offset, or other seizure;
- Cause or seek to cause the collection of a debt, including pursuant to a court order issued before the covered period, by levying on funds from a bank account or seizing any other assets of a consumer or a small business;
- Commence or continue an action to evict a consumer or small business from real or personal property;
- Disconnect or terminate service from utility service, including electricity, natural gas, telecommunications or broadband, water, or sewer.²

Communication with debtor

Without prior consent of the consumer or small business given directly to the debt collector during the covered period, or the express permission of a court of competent

¹ Section 1(A).

² Section 1(B).

jurisdiction, a debt collector can only communicate in writing in connection with the collection of any debt. All written communications during the covered period must inform the consumer or small business that the communication is for informational purposes and is not an attempt to collect a debt. This disclosure must be made in type or lettering not smaller than 14-point bold type, separate from any other disclosure, and in a manner designed to ensure that the recipient sees the disclosure clearly.³

Repayment of debt

Nothing in the bill is meant to be construed to prohibit a consumer or a small business from voluntarily paying, in whole or in part, a debt. However, for any debt not paid during the covered period, the bill provides a few restrictions relating to the repayment of the debt. After the expiration of the covered period, a debt collector cannot add to the past due balance any interest or fee prohibited by the bill. For any debt with a defined payment period, the debt collector must extend the time period to repay the past-due balance of the debt by one payment period for each payment that a consumer or small business missed during the covered period, with the payments due in the same amounts and at the same intervals as the preexisting payment schedule.

Also, for an open-end credit plan or other credit plan without a defined term, the debt collector must permit the consumer or small business to repay the past-due balance in a manner that does not exceed the amounts permitted by the methods described in the federal Truth in Lending Act that relates to the repayment of an outstanding balance. If the debt has no payment periods, the debt collector must allow the consumer or small business a reasonable time to repay the debt in affordable payments.⁴

Penalty and time limitations

Any person that violates the bill's provisions is subject to civil liability of up to \$10,000. Also, any applicable time limitations, including statutes of limitations, related to a debt under Ohio law are tolled during the covered period.⁵

HISTORY

Action	Date
Introduced	03-31-20

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³ Section 1(E) and (F).

⁴ Section 1(C) and (D).

⁵ Section 1(G) and (H).