

[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.

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. RESTRICTIONS ON COLLECTIONS OF SMALL**
4 **BUSINESS AND NONPROFIT DEBT DURING A**
5 **NATIONAL DISASTER OR EMERGENCY.**

6 (a) IN GENERAL.—The Fair Debt Collection Prac-
7 tices Act (15 U.S.C. 1692 et seq.) is amended by inserting
8 after section 812 the following:

1 **“§ 812A. Restrictions on collections of small business**
2 **and nonprofit debt during a national dis-**
3 **aster or emergency**

4 “(a) DEFINITIONS.—In this section:

5 “(1) COVERED PERIOD.—The term ‘covered pe-
6 riod’ means the period beginning on the date of en-
7 actment of this section and ending 120 days after
8 the end of the incident period for the emergency de-
9 clared on March 13, 2020, by the President under
10 section 501 of the Robert T. Stafford Disaster Relief
11 and Emergency Assistance Act (42 U.S.C. 4121 et
12 seq.) relating to the Coronavirus Disease 2019
13 (COVID–19) pandemic.

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

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

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

20 “(3) DEBT.—The term ‘debt’—

21 “(A) means any obligation or alleged obli-
22 gation that is or during the covered period be-
23 comes past due, other than an obligation aris-
24 ing out of a credit agreement entered into after
25 the effective date of this section, that arises out
26 of a transaction with a consumer; and

1 “(B) does not include a mortgage loan.

2 “(4) DEBT COLLECTOR.—The term ‘debt col-
3 lector’ means a creditor and any other person or en-
4 tity that engages in the collection of debt, including
5 the Federal Government and a State government, ir-
6 respective of whether the applicable debt is allegedly
7 owed to or assigned to such creditor, person, or enti-
8 ty.

9 “(5) MORTGAGE LOAN.—The term ‘mortgage
10 loan’ means a Federally backed mortgage loan (as
11 defined under section 4022 of the CARES Act) and
12 a Federally backed multifamily mortgage loan (as
13 defined under section 4023 of the CARES Act).

14 “(1) NONPROFIT ORGANIZATION.—The term
15 ‘nonprofit organization’ means an organization that
16 is described in section 501(c)(3) of the Internal Rev-
17 enue Code of 1986 and that is exempt from taxation
18 under section 501(a) of such Code.

19 “(2) SMALL BUSINESS.—The term ‘small busi-
20 ness’ has the meaning given the term ‘small business
21 concern’ under section 3 of the Small Business Act
22 (15 U.S.C. 632).

23 “(b) PROHIBITIONS.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, no debt collector may, during a cov-
3 ered period—

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

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

12 “(C) collect any debt, by way of garnish-
13 ment, attachment, assignment, deduction, off-
14 set, or other seizure, from—

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

17 “(ii) any assets of, or other amounts
18 due to, a small business or nonprofit orga-
19 nization;

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

23 “(E) disconnect or terminate service from
24 a utility service, including electricity, natural

1 gas, telecommunications or broadband, water,
2 or sewer, for nonpayment; or

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

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

9 “(c) LIMITATION ON FEES AND INTEREST.—After
10 the expiration of a covered period, a debt collector may
11 not add to any past due debt any interest on unpaid inter-
12 est, higher rate of interest triggered by the nonpayment
13 of the debt, or fee triggered prior to the expiration of the
14 covered period by the nonpayment of the debt.

15 “(e) VIOLATIONS.—Any person or government entity
16 that violates this section shall be liable to the applicable
17 small business or nonprofit organization as provided under
18 section 813, except that, for purposes of applying section
19 813—

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

23 “(2) such small business or nonprofit organiza-
24 tion shall be deemed a consumer, as such term is de-
25 fined for purposes of section 813.

1 “(f) TOLLING.—Any applicable time limitations for
2 exercising an action prohibited under subsection (b) shall
3 be tolled during a covered period.

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

11 (b) CLERICAL AMENDMENT.—The table of contents
12 for the Fair Debt Collection Practices Act is amended by
13 inserting after the item relating to section 812 the fol-
14 lowing:

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

15 **SEC. 2. REPAYMENT PERIOD AND FORBEARANCE FOR**
16 **SMALL BUSINESSES AND NONPROFIT ORGA-**
17 **NIZATIONS.**

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

21 (1) by inserting after subsection (c) the fol-
22 lowing:

1 “(d) REPAYMENT PERIOD.—After the expiration of
2 a covered period, a debt collector shall comply with the
3 following:

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

9 “(A) 1 payment period for each payment
10 that a small business or nonprofit organization
11 missed during the covered period, with the pay-
12 ments due in the same amounts and at the
13 same intervals as the pre-existing payment
14 schedule; and

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

18 “(2) DEBT ARISING FROM AN OPEN END CRED-
19 IT PLAN.—For debt arising from an open end credit
20 plan, as defined in section 103 of the Truth in
21 Lending Act (15 U.S.C. 1602), the debt collector
22 shall allow the small business or nonprofit organiza-
23 tion to repay the past-due balance in a manner that
24 does not exceed the amounts permitted by the meth-
25 ods described in section 171(c) of the Truth in

1 Lending Act (15 U.S.C. 1666i–1(c)) and regulations
2 promulgated under that section.

3 “(3) DEBT ARISING FROM OTHER CREDIT.—

4 “(A) IN GENERAL.—For debt not de-
5 scribed under paragraph (2) or (3), the debt
6 collector shall—

7 “(i) allow the small business or non-
8 profit organization to repay the past-due
9 balance of the debt in substantially equal
10 payments over time; and

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

13 “(I) for past due balances of
14 \$2,000 or less, 12 months to repay, or
15 such longer period as the debt col-
16 lector may allow;

17 “(II) for past due balances be-
18 tween \$2,001 and \$5,000, 24 months
19 to repay, or such longer period as the
20 debt collector may allow; or

21 “(III) for past due balances
22 greater than \$5,000, 36 months to
23 repay, or such longer period as the
24 debt collector may allow.

1 “(B) ADDITIONAL PROTECTIONS.—The Di-
2 rector of the Bureau may issue rules to provide
3 greater repayment protections to small busi-
4 nesses and nonprofit organizations with debts
5 described under subparagraph (A).

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

11 (2) by adding at the end the following:

12 “(h) FORBEARANCE FOR AFFECTED SMALL BUSI-
13 NESSES AND NONPROFIT ORGANIZATIONS.—

14 “(1) FORBEARANCE PROGRAM.—Each debt col-
15 lector that makes use of the credit facility described
16 in paragraph (4) shall establish a forbearance pro-
17 gram for debts available during the covered period.

18 “(2) AUTOMATIC GRANT OF FORBEARANCE
19 UPON REQUEST.—Under a forbearance program re-
20 quired under paragraph (1), upon the request of a
21 small business or nonprofit organization experi-
22 encing a financial hardship due, directly or indi-
23 rectly, to COVID–19, the debt collector shall grant
24 a forbearance on payment of debt for such time as
25 needed until the end of the covered period, with no

1 additional documentation required other than the
2 small business or nonprofit organization’s attestation
3 to a financial hardship caused by COVID–19 and
4 with no fees, penalties, or interest (beyond the
5 amounts scheduled or calculated as if the borrower
6 made all contractual payments on time and in full
7 under the terms of the loan contract) charged to the
8 borrower in connection with the forbearance.

9 “(3) EXCEPTION FOR CERTAIN MORTGAGE
10 LOANS SUBJECT TO THE CARES ACT.—This sub-
11 section shall not apply to a mortgage loan subject to
12 section 4022 or 4023 of the CARES Act.”

13 **SEC. 3. CREDIT FACILITY.**

14 Section 812A(h) of the Fair Debt Collection Prac-
15 tices Act (15 U.S.C. 1692 et seq.), as added by section
16 2, is amended by adding at the end the following:

17 “(4) CREDIT FACILITY.—The Board of Gov-
18 ernors of the Federal Reserve System shall—

19 “(A) establish a facility, using amounts
20 made available under section 4003(b)(4) of the
21 CARES Act (15 U.S.C. 9042(b)(4)), to make
22 long-term, low-cost loans to debt collectors to
23 temporarily compensate such debt collectors for
24 documented financial losses caused by forbear-

1 ance of debt payments under this subsection;
2 and
3 “(B) defer debt collectors’ required pay-
4 ments on such loans until after small businesses
5 or nonprofit organizations’ debt payments re-
6 sume.”.