SENATE BILL 21-002

BY SENATOR(S) Winter and Gonzales, Bridges, Buckner, Coleman, Donovan, Fenberg, Fields, Ginal, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Rodriguez, Story, Garcia;
also REPRESENTATIVE(S) Herod, Amabile, Arndt, Bacon, Bernett, Bird, Caraveo, Cutter, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jackson, Kipp, Lontine, McCluskie, McCormick, McKean, Michaelson Jenet, Mullica, Ortiz, Roberts, Snyder, Sullivan, Tipper, Titone, Valdez A., Weissman, Woodrow, Garnett.

CONCERNING MODIFICATION OF THE LIMITATIONS ON CERTAIN DEBT COLLECTION ACTIONS ENACTED IN SENATE BILL 20-211.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-33.5-704.3, **amend** (2), (4), (5)(a)(I), and (5)(b); **repeal** (3); and **add** (5)(c) as follows:

24-33.5-704.3. Temporary prohibition on extraordinary collection actions - definitions - repeal. (2) In order to protect Colorado residents during the public health crisis caused by COVID-19, for the time period beginning on the effective date of this section and ending on ~~November 1, 2020,~~ JUNE 1, 2021, a judgment creditor shall not initiate or

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

maintain a new extraordinary collection action except in accordance with the requirements of this section. A court of record shall deny without prejudice any request for issuance of a writ or legal process to effect an extraordinary collection action if the court finds that the action does not comply with the requirements of this section. During the time period described in this subsection (2), ~~and as it may be extended under subsection (3) of this section,~~ the use of an extraordinary collection action NOT IN ACCORDANCE WITH THIS SECTION constitutes an unfair and unconscionable means of collecting a debt under section 5-16-108.

(3) ~~The administrator of the "Uniform Consumer Credit Code", as defined in section 5-16-103 (1), may issue an order extending the prohibition set forth in subsection (2) of this section through February 1, 2021, if the administrator finds that such an extension is necessary to preserve and prioritize the resources of state and local agencies or to protect Colorado residents from economic hardship as a result of the disaster emergency caused by COVID-19.~~

(4) For the duration of the period established in subsection (2) of this section, ~~and as it may be extended under subsection (3) of this section,~~ prior to the execution or service of a writ or legal process intended to effect an extraordinary collection action, the judgment creditor shall provide a written notice to the judgment debtor. The notice must be sent to the judgment debtor at least ten days, but not more than sixty days, prior to the execution or service of a writ or legal process intended to effect the extraordinary collection action during the duration of the period established in accordance with subsection (2) of this section. ~~and as it may be extended under subsection (3) of this section.~~

(5) (a) (I) The notice required by subsection (4) of this section must be in at least sixteen point type face, and must include the following:

"YOU HAVE THE RIGHT TO TEMPORARILY SUSPEND THIS COLLECTION ACTION IF YOU ARE FACING FINANCIAL HARDSHIP DUE TO THE COVID-19 EMERGENCY.

Judgment Creditor Name:
Judgment Creditor Address:
Case Number:
Phone:

The above judgment creditor intends on executing a collection action against you. If you have experienced financial hardship due to the COVID-19 emergency, directly or indirectly, you have the right to suspend temporarily this extraordinary collection action. The suspension is effective until ~~November 1, 2020, or February 1, 2021, if the state of Colorado extends the period of suspension~~ JUNE 1, 2021.

To exercise this right, you must notify the judgment creditor that you are experiencing financial hardship due to the COVID-19 emergency. You can provide this notice by phone call or by writing to the creditor at the address shown in this notice. Your notification to the judgment creditor must include your full name (first and last), the case number identified above and at least one (1) additional piece of the following information: your date of birth, social security number, physical and mailing addresses, or the judgment creditor's internal account number or identifier, if different from the case number designated above. You are not required to provide documentation to support your request.

NOTE: Requesting the temporary suspension of this extraordinary debt collection action is not a waiver of the obligation to pay or debt forgiveness. Interest may continue to accrue on the judgment debt even while extraordinary collection actions are suspended.

You may enter into a voluntary repayment plan with the judgment creditor, but you are not required to do so."

(b) The notice requirements under this section terminate once the period proscribed in subsection (2) of this section ~~and as it may be extended under subsection (3) of this section,~~ expires. The notice must be sent to a judgment debtor at the debtor's last known address to the judgment creditor. An additional copy of the notice must also be served with the writ of garnishment. In the case of a writ of continuing garnishment for wages, the notice must accompany the writ served upon the garnishee. The failure of the garnishee or its agent to provide the notice to the judgment debtor required by this subsection (5) does not create a cause of action or remedy against a judgment creditor.

(c) IF, BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (5)(c), A JUDGMENT CREDITOR PROVIDED A NOTICE TO A JUDGMENT DEBTOR STATING THAT THE PERIOD OF SUSPENSION IS EFFECTIVE UNTIL NOVEMBER 1, 2020, OR FEBRUARY 1, 2021:

(I) IF THE JUDGMENT DEBTOR NOTIFIED THE JUDGMENT CREDITOR

THAT THE JUDGMENT DEBTOR WAS EXPERIENCING FINANCIAL HARDSHIP IN ACCORDANCE WITH THE REQUIREMENTS OF THE NOTICE, THE PERIOD OF SUSPENSION IS EXTENDED TO JUNE 1, 2021.

(II) IF THE JUDGMENT DEBTOR DID NOT RESPOND TO THE NOTICE AND THE JUDGMENT CREDITOR DID NOT EXECUTE OR SERVE A WRIT OR LEGAL PROCESS INTENDED TO EFFECT THE EXTRAORDINARY COLLECTION ACTION BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (5)(c), THE JUDGMENT CREDITOR SHALL PROVIDE A NEW NOTICE PRIOR TO THE EXECUTION OR SERVICE OF A WRIT OR LEGAL PROCESS IN ACCORDANCE WITH SUBSECTIONS (4) AND (5)(a)(I) OF THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 13-54-102, **amend** (1)(w)(I) as follows:

13-54-102. Property exempt - definitions - repeal. (1) The following property is exempt from levy and sale under writ of attachment or writ of execution:

(w) (I) Through ~~February 1, 2021,~~ JUNE 1, 2021, up to four thousand dollars cumulative in a depository account or accounts in the name of the debtor.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED January 21, 2021 at 9:50 am
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO