

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0699.01 Megan Waples x4348

SENATE BILL 21-002

SENATE SPONSORSHIP

Winter and Gonzales,

HOUSE SPONSORSHIP

Herod,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill extends the time in which debtors experiencing financial hardship due to the COVID-19 emergency may have extraordinary debt collection actions suspended. Currently, the law requires a judgment creditor (creditor) to provide a notice to a judgment debtor (debtor) before instituting an extraordinary debt collection action, which includes an action in the nature of a garnishment, attachment, levy, or execution to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

collect or enforce a judgment. The debtor may suspend the collection action by notifying the creditor that the debtor is experiencing financial hardship due to COVID-19. The obligation to provide notice and the suspension of the collection action are effective through February 1, 2021. The bill extends the effective period for the notice and the suspension to June 1, 2021. If a collection action has already been suspended by the debtor, the creditor is required to notify the debtor that the suspension is now effective through June 1, 2021.

In addition, under current law, up to \$4,000 cumulative in a depository account or accounts in a debtor's name is exempt from levy and sale under a writ of attachment or execution through February 1, 2021. The bill extends that date to June 1, 2021.

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

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

5 **24-33.5-704.3. Temporary prohibition on extraordinary**
6 **collection actions - definitions - repeal.** (2) In order to protect Colorado
7 residents during the public health crisis caused by COVID-19, for the
8 time period beginning on the effective date of this section and ending on
9 ~~November 1, 2020~~, JUNE 1, 2021, a judgment creditor shall not initiate or
10 maintain a new extraordinary collection action except in accordance with
11 the requirements of this section. A court of record shall deny without
12 prejudice any request for issuance of a writ or legal process to effect an
13 extraordinary collection action if the court finds that the action does not
14 comply with the requirements of this section. During the time period
15 described in this subsection (2), ~~and as it may be extended under~~
16 ~~subsection (3) of this section~~, the use of an extraordinary collection action
17 NOT IN ACCORDANCE WITH THIS SECTION constitutes an unfair and
18 unconscionable means of collecting a debt under section 5-16-108.

19 (3) ~~The administrator of the "Uniform Consumer Credit Code", as~~

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

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

17 (5) (a) (I) The notice required by subsection (4) of this section
18 must be in at least sixteen point type face, and must include the following:
19 **"YOU HAVE THE RIGHT TO TEMPORARILY SUSPEND THIS**
20 **COLLECTION ACTION IF YOU ARE FACING FINANCIAL**
21 **HARDSHIP DUE TO THE COVID-19 EMERGENCY.**

22 Judgment Creditor Name:

23 Judgment Creditor Address:

24 Case Number:

25 Phone:

26 The above judgment creditor intends on executing a collection action
27 against you. If you have experienced financial hardship due to the

1 COVID-19 emergency, directly or indirectly, you have the right to
2 suspend temporarily this extraordinary collection action. The suspension
3 is effective until ~~November 1, 2020, or February 1, 2021, if the state of~~
4 ~~Colorado extends the period of suspension~~ JUNE 1, 2021.

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

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

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

21 (b) The notice requirements under this section terminate once the
22 period proscribed in subsection (2) of this section ~~and as it may be~~
23 ~~extended under subsection (3) of this section~~, expires. The notice must be
24 sent to a judgment debtor at the debtor's last known address to the
25 judgment creditor. An additional copy of the notice must also be served
26 with the writ of garnishment. In the case of a writ of continuing
27 garnishment for wages, the notice must accompany the writ served upon

1 the garnishee. The failure of the garnishee or its agent to provide the
2 notice to the judgment debtor required by this subsection (5) does not
3 create a cause of action or remedy against a judgment creditor.

4 (c) IF, BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (5)(c), A
5 JUDGMENT CREDITOR PROVIDED A NOTICE TO A JUDGMENT DEBTOR
6 STATING THAT THE PERIOD OF SUSPENSION IS EFFECTIVE UNTIL NOVEMBER
7 1, 2020, OR FEBRUARY 1, 2021:

8 (I) IF THE JUDGMENT DEBTOR NOTIFIED THE JUDGMENT CREDITOR
9 THAT THE JUDGMENT DEBTOR WAS EXPERIENCING FINANCIAL HARDSHIP IN
10 ACCORDANCE WITH THE REQUIREMENTS OF THE NOTICE, THE PERIOD OF
11 SUSPENSION IS EXTENDED TO JUNE 1, 2021. THE JUDGMENT CREDITOR
12 SHALL SEND THE JUDGMENT DEBTOR A NOTICE INFORMING THE JUDGMENT
13 DEBTOR THAT THE SUSPENSION IS EFFECTIVE UNTIL JUNE 1, 2021.

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

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

23 **13-54-102. Property exempt - definitions - repeal.** (1) The
24 following property is exempt from levy and sale under writ of attachment
25 or writ of execution:

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

1 name of the debtor.

2 **SECTION 3. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.