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INSIGHT

Heroes Act (H.R. 6800/H.R. 925): Selected Consumer Loan Provisions

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The economic impact of the Coronavirus Disease 2019 (COVID-19) pandemic has been largely due to illnesses, quarantines, social distancing, local stay-at-home orders, and other business disruptions. Consequently, many Americans have lost income and face financial hardship.

On May 15, 2020, the House passed the Heroes Act (H.R. 6800), a wide-ranging COVID-19 relief bill, and on October 1, 2020, the House passed an updated version of the bill (H.R. 925). This Insight discusses selected provisions in Division O, Title IV of the updated bill related to consumer loans and the financial services industry (Division K, Title IV in H.R. 6800).

Background

Many consumers have had trouble paying their loan obligations, such as mortgages, student loans, auto loans, and credit cards. For this reason, *loan forbearance* has become a common form of relief offered by lenders to consumers (borrowers) during the COVID-19 pandemic. Loan forbearance plans are agreements allowing borrowers to reduce or suspend payments for a short period of time, providing extended time for consumers to become current on their payments and repay the amounts owed. These plans do not forgive unpaid loan payments and tend to be appropriate for borrowers experiencing temporary hardship.

Another COVID-19 relief bill, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136) enacted on March 27, 2020, establishes consumer rights to be granted forbearance for federally backed mortgages (Section 4022) and federal student loans (Section 3513). The CARES Act also protects the credit histories of consumers with forbearance agreements (Section 4021). It does not grant consumers these rights for other loans owed to private creditors, such as auto loans, credit cards, private student loans, and nonfederally backed mortgages. In these cases, financial institutions have discretion about when and how to offer loan forbearance or other relief options. Therefore, a consumer's ability to access these options and protect their credit history may vary. For more information, see CRS Report R46356, *COVID 19: Consumer Loan Forbearance and Other Relief Options*, coordinated by Cheryl R. Cooper.

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Consumer Loan Forbearance and Other Payment Relief

The Heroes Act would expand consumer rights to loan forbearance and other payment relief beyond federally backed mortgages and federal student loans. Section 402 would ban creditors and debt collectors from collecting on a debt (such as garnishment or seizing bank account assets), enforcing a security interest (such as repossession or foreclosure), or threatening to take an action on a debt during the COVID-19 pandemic and for 120 days afterward. This section also would ban creditors or debt collectors from charging additional fees and interest to debts past due during this period.

Section 403 defines appropriate repayment periods for different types of past-due debt after the Section 402 period ends. For example, for debt with defined terms (such as a mortgage or auto loan), the loan's term would be extended by at least as many periods as the consumer missed payments, so the payment amount remains the same for consumers. After the missed payment period, the terms of open-ended debts (such as credit card debt) would be paid according to similar contract rules as before the COVID-19 pandemic. Generally, for other types of debt (without set terms), the larger the debt, the more time consumers would be allowed to pay it off. Private-sector creditors and debt collectors may use a credit facility established in Section 404 if they automatically grant loan forbearance to consumers who are experiencing financial hardship and request it during the COVID-19 pandemic and 120 days afterward.

Sections 402 and 403 would expand payment relief for consumers facing financial hardship during the COVID-19 pandemic, including potentially those who need relief beyond what is in the CARES Act. These provisions could also encourage some consumers not pay their loan payments because there are limited consequences for doing so.

Federal Reserve Loan Facility for Creditors and Debt Collectors

Sections 402 and 403 would impose costs on many financial institutions that own these consumer debts. In addition to consumer loan forbearance provisions, the CARES Act also provides funds to back Federal Reserve emergency facilities.

Section 404 would require the Federal Reserve to create a facility backed by CARES Act funds that provides long-term, low-cost loans to creditors and debt collectors who have losses caused by offering loan forbearance to consumers and participate in the forbearance program established in Section 403. Eligibility would include private-sector creditors and debt collectors of most types of consumer debt. (Whereas federally backed mortgages are not included in this provision, Section 205 would require mortgage servicers of federally backed mortgages to have access to Federal Reserve lending programs for borrower assistance.)

Ban on Negative Credit Reporting

Consumers' credit scores can be harmed when they miss consumer loan payments, possibly reducing their access to credit (or other financial products or opportunities) in the future. Although the CARES Act protects the credit histories of consumers with forbearance agreements, some consumers may still experience harm to their credit record because lenders can choose whether or not to enter into an assistance agreement for many types of consumer loans.

Section 401 in the updated Heroes Act would create a moratorium on furnishing adverse information to credit bureaus during the COVID-19 pandemic and for 120 days afterward, as well as for other future major natural disasters. Consumers could request to remove adverse information during the covered period and for 270 days afterward if experiencing economic hardship. Medical debt related to treatments arising from COVID-19 or another major disaster would not be furnished or included in the credit report. New credit scoring models could not be implemented during a major natural disaster period if they would identify a significant percentage of consumers as being less creditworthy than the previous model. Although these provisions would protect consumers from lower credit scores during the COVID-19 pandemic, the removal of information may also reduce credit scores' predictability in the future, which could harm some consumers in the long term.

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