

116TH CONGRESS  
2D SESSION

# S. 3841

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## AN ACT

To protect 2020 recovery rebates for individuals from assignment or garnishment, 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,*

1 **SECTION 1. PROTECTION OF 2020 RECOVERY REBATES.**

2 (a) IN GENERAL.—Subsection (d) of section 2201 of  
3 the CARES Act (Public Law 116–136) is amended—

4 (1) by redesignating paragraphs (1), (2), and  
5 (3) as subparagraphs (A), (B), and (C), and by mov-  
6 ing such subparagraphs 2 ems to the right,

7 (2) by striking “REDUCTION OR OFFSET.—Any  
8 credit” and inserting “REDUCTION, OFFSET, GAR-  
9 NISHMENT, ETC.—

10 “(1) IN GENERAL.—Any credit”, and

11 (3) by adding at the end the following new  
12 paragraphs:

13 “(2) ASSIGNMENT OF BENEFITS.—

14 “(A) IN GENERAL.—The right of any per-  
15 son to any applicable payment shall not be  
16 transferable or assignable, at law or in equity,  
17 and no applicable payment shall be subject to,  
18 execution, levy, attachment, garnishment, or  
19 other legal process, or the operation of any  
20 bankruptcy or insolvency law.

21 “(B) ENCODING OF PAYMENTS.—As soon  
22 as practicable, but not earlier than 10 days  
23 after the date of the enactment of this para-  
24 graph, in the case of an applicable payment  
25 that is paid electronically by direct deposit  
26 through the Automated Clearing House (ACH)

1 network, the Secretary of the Treasury (or the  
2 Secretary's delegate) shall—

3 “(i) issue the payment using a unique  
4 identifier that is reasonably sufficient to  
5 allow a financial institution to identify the  
6 payment as an applicable payment, and

7 “(ii) further encode the payment pur-  
8 suant to the same specifications as re-  
9 quired for a benefit payment defined in  
10 section 212.3 of title 31, Code of Federal  
11 Regulations.

12 “(C) GARNISHMENT.—

13 “(i) ENCODED PAYMENTS.—In the  
14 case of a garnishment order received after  
15 the date that is 10 days after the date of  
16 the enactment of this paragraph and that  
17 applies to an account that has received an  
18 applicable payment that is encoded as pro-  
19 vided in subparagraph (B), a financial in-  
20 stitution shall follow the requirements and  
21 procedures set forth in part 212 of title  
22 31, Code of Federal Regulations, except a  
23 financial institution shall not, with regard  
24 to any applicable payment, be required to  
25 provide the notice referenced in sections

1 212.6 and 212.7 of title 31, Code of Fed-  
2 eral Regulations. This paragraph shall not  
3 alter the status of applicable payments as  
4 tax refunds or other nonbenefit payments  
5 for purpose of any reclamation rights of  
6 the Department of Treasury or the Inter-  
7 nal Revenue Service as per part 210 of  
8 title 31 of the Code of Federal Regula-  
9 tions.

10 “(ii) OTHER PAYMENTS.—If a finan-  
11 cial institution receives a garnishment  
12 order, other than an order that has been  
13 served by the United States or an order  
14 that has been served by a Federal, State,  
15 or local child support enforcement agency,  
16 that has been received by a financial insti-  
17 tution after the date that is 10 days after  
18 the date of the enactment of this para-  
19 graph and that applies to an account into  
20 which an applicable payment that has not  
21 been encoded as provided in subparagraph  
22 (B) has been deposited electronically or by  
23 an applicable payment that has been de-  
24 posited by check on any date in the  
25 lookback period, the financial institution,

1           upon the request of the account holder,  
2           shall treat the amount of the funds in the  
3           account at the time of the request, up to  
4           the amount of the applicable payment (in  
5           addition to any amounts otherwise pro-  
6           tected under part 212 of title 31, Code of  
7           Federal Regulations), as exempt from a  
8           garnishment order without requiring the  
9           consent of the party serving the garnish-  
10          ment order or the judgment creditor.

11           “(iii) LIABILITY.—A financial institu-  
12          tion that acts in good faith in reliance on  
13          clauses (i) or (ii) shall not be subject to li-  
14          ability or regulatory action under any Fed-  
15          eral or State law, regulation, court or other  
16          order, or regulatory interpretation for ac-  
17          tions concerning any applicable payments.

18           “(D) DEFINITIONS.—For purposes of this  
19          paragraph—

20           “(i) ACCOUNT HOLDER.—The term  
21          ‘account holder’ means a natural person  
22          whose name appears in a financial institu-  
23          tion’s records as the direct or beneficial  
24          owner of an account.

1           “(ii) ACCOUNT REVIEW.—The term  
2           ‘account review’ means the process of ex-  
3           amining deposits in an account to deter-  
4           mine if an applicable payment has been de-  
5           posited into the account during the  
6           lookback period. The financial institution  
7           shall perform the account review following  
8           the procedures outlined in section 212.5 of  
9           title 31, Code of Federal Regulations and  
10          in accordance with the requirements of sec-  
11          tion 212.6 of title 31, Code of Federal  
12          Regulations.

13          “(iii) APPLICABLE PAYMENT.—The  
14          term ‘applicable payment’ means any pay-  
15          ment of credit or refund by reason of sec-  
16          tion 6428 of the Internal Revenue Code of  
17          1986 (as so added) or by reason of sub-  
18          section (c) of this section.

19          “(iv) GARNISHMENT.—The term ‘gar-  
20          nishment’ means execution, levy, attach-  
21          ment, garnishment, or other legal process.

22          “(v) GARNISHMENT ORDER.—The  
23          term ‘garnishment order’ means a writ,  
24          order, notice, summons, judgment, levy, or  
25          similar written instruction issued by a

1 court, a State or State agency, a municipi-  
2 pality or municipal corporation, or a State  
3 child support enforcement agency, includ-  
4 ing a lien arising by operation of law for  
5 overdue child support or an order to freeze  
6 the assets in an account, to effect a gar-  
7 nishment against a debtor.

8 “(vi) LOOKBACK PERIOD.—The term  
9 ‘lookback period’ means the two month pe-  
10 riod that begins on the date preceding the  
11 date of account review and ends on the  
12 corresponding date of the month two  
13 months earlier, or on the last date of the  
14 month two months earlier if the cor-  
15 responding date does not exist.”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on the date of the enactment  
18 of this Act.

Passed the Senate July 23, 2020.

Attest:

*Secretary.*

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