

Stimulus Payments Will Be Off Limits to Debt Collectors After Attorney General James Issues Official Guidance

AG James' Action Will Protect Billions of Dollars in Financial Relief for Millions of New Yorkers

*New Guidance Latest in AG James' Efforts to Protect
New Yorkers' Wallets During Coronavirus Crisis*

NEW YORK – New York Attorney General Letitia James today took action to protect millions of New Yorkers and block debt collectors from raiding billions of dollars in emergency stimulus payments authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Attorney General James [issued official guidance to New York State banking institutions, creditors, and debt collectors, making clear that financial relief provided through stimulus payments are exempt from garnishment under New York law](#). The CARES Act authorized the U.S. Department of Treasury to send billions of dollars to Americans struggling as a result of the economic fallout of the coronavirus disease 2019 (COVID-19) public health crisis, but these emergency stimulus payments were not designated as exempt from garnishment, allowing debt collectors to potentially benefit before consumers.

“As the coronavirus crisis continues to wreak havoc on our society, I will do everything in my power to protect the wallets of every New Yorker,” said **Attorney General James**. “Today, we are taking concrete action to ensure debt collectors keep their hands off New Yorkers’ stimulus payments. This official guidance makes clear that banks and debt collectors cannot freeze or seize stimulus funds that are on their way to New York families, and any institution that violates this guidance will face swift legal action from my office.”

Attorney General James’ guidance is based on multiple state and federal consumer protection laws and clarifies that any attempt to garnish stimulus funds from New Yorkers will be treated as a violation of these laws.

Under New York law, certain types of property — including public benefits like public assistance, social security, and veterans’ and retirement benefits — are exempt from execution, levy, attachment, garnishment, or other legal process by a judgment creditor seeking to satisfy a monetary judgment. The New York State Court of Appeals has held that exemption statutes “are to be construed liberally in favor of debtors” because exemptions “serve the important purpose of protect[ing] the debtor’s essential needs.”

CARES Act payments are similarly aimed at debtors’ or borrowers’ essential needs and — under Attorney General James’ guidance — will therefore be treated and are subject to the same protections as statutorily exempt payments, and will not be subject to garnishment — a legal mechanism that typically involves the “freezing” of funds in a bank account by creditors or debt collectors. Attorney General James’ guidance today advises banking institutions that CARES Act payments will follow similar legal processes as other public benefits, and any person or entity that garnishes or attempts to garnish these payments will have violated multiple state and federal consumer protection laws.

After Congress passed the law, but still left vulnerable Americans susceptible to predatory creditors, [Attorney General James led a bipartisan coalition of 25 states in calling on Treasury Secretary Steven Mnuchin and the Trump Administration to ensure CARES Act payments would be exempt from garnishment](#), but, to date, the Treasury Department has refused to do so.

Attorney General James guidance today is in response to the Treasury Department’s inaction.

The guidance also addresses what are known as “setoffs” — where a bank seizes funds in a consumer’s account at the bank to pay a debt owed to the bank. CARES Act payments are now exempt from this abusive and unfair practice, and Attorney General James is urging all financial institutions to follow the lead of the nation’s largest banks and halt collection on negative account balances to give their customers access to vital stimulus payments.

The CARES Act authorized the Treasury Department to issue emergency stimulus payments of up to \$1,200 for eligible adults and up to \$500 for eligible children to help offset the costs of essentials, like housing, groceries, car payments, and other necessary expenses.

Attorney General James is prepared and determined to uphold the law and to protect New Yorkers against those looking to exploit the coronavirus public health crisis for their own gain. Since the beginning of the COVID-19 outbreak, the Office of the Attorney (OAG) General has sent out more than 1,200 cease and desist orders, to date, to businesses across the state that have been suspected of charging excessive prices for hand sanitizers, disinfectant sprays, rubbing alcohol, and essential food items and groceries — a violation of New York’s price gouging statute.

The OAG has also sent 13 cease and desist letters to individuals and companies selling and marketing certain products as preventive treatments or cures for the coronavirus and has sent 78 cease and desist orders to companies providing medical transportation services to Medicaid recipients that are violating the state’s requirements prohibiting medical transports with more than one occupant per vehicle during this crisis.

Working with domain name registrars across the nation, the OAG has removed more than 20 fraudulent websites for marketing scams. Additionally, the OAG has responded to more than 3,000 individuals regarding labor-related complaints or questions.

This matter was handled by Assistant Attorney General Christopher L. McCall, Deputy Bureau Chief Laura J. Levine, and Bureau Chief Jane M. Azia — all of the Consumer Frauds and Protection Bureau — as well as Assistant Solicitor General Kathryn Sheingold, Deputy Solicitor General Steven Wu, and Solicitor General Barbara D. Underwood — all of the Division of Appeals and Opinions. Chief Deputy Attorney General for Social Justice Meghan Faux also provided additional support in this matter. The Consumer Frauds and Protection Bureau is overseen by Chief Deputy Attorney General for Economic Justice Christopher D’Angelo and First Deputy Attorney General Jennifer Levy.

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- > [September 2019](#)
- > [August 2019](#)
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