Center for Responsible Lending

COVID-19 Crisis Requires Comprehensive Response to Protect Financial Security, CARES Act Falls Short

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H.R. 748, the Coronavirus Aid, Relief and Economic Security Act (CARES Act)—signed into law on March 27, 2020—offers important benefits for the public health crisis caused by COVID-19. **However, the bill fails to provide substantive, comprehensive financial relief for vulnerable families who now face economic challenges, such as unemployment and reduced work hours, as a result of the crisis**. It excludes millions of undocumented residents and mixed status families from accessing critical financial relief. Furthermore, it prevents returning citizens from gaining relief.

The lessons of the Great Recession make plain the need to get out ahead of financial disruptions to avoid the needless compounding of losses to families and communities, irrespective of legal status. Black, Latino, other families of color and low-to-moderate income families are bearing the brunt and require more economic relief, including immigrant families of mixed status who are especially vulnerable as they cannot access federal financial assistance. **More relief and protections are needed for families and small businesses to survive and not end up in a financially worse position.**

Small Business Relief for Businesses of Color

- **Ensure funding gets to the businesses that were excluded from PPP.**
    - Reserve $10 billion of PPP small business loan funding for loans by community development financial institutions (CDFIs) and minority-depository institutions (MDIs) (not to include bank-affiliated CDFIs), of which $5 billion is reserved for loans of up to $75,000.
    - Make a $1 billion emergency allocation to the CDFI Fund.
    - Reserve 30% of any new small business loan funding (other than the $10 billion for CDFIs/MDIs) for businesses with fewer than 10 employees located in low- and moderate-income census tracts. These terms should apply:
        - Maximum loan amount: $75,000
        - Eligible expenses/expenses counted in determination of permitted loan size, uses and forgiveness amount:
            - Expanded to include necessary businesses expenses, as described below.
            - For sole proprietorships, include 6 months of profits (as reflected in 2018 or 2019 tax return)
        - Outreach and enrollment assistance: $30 million funding for grants to Community Development Corporations and Community-Based Organizations for outreach, enrollment assistance, and technical support for compliance and loan forgiveness, for eligible businesses.
- **Reform PPP rules applicable to all round-3 loans to enhance efficacy.** Eliminate disincentive for lenders to make small loans, by setting minimum origination fee at the lesser of $2,500 or 50% of loan amount. Set the maximum loan amount at $2,000,000. Remove barriers to participation:
    - Streamline know-your-customer requirements for businesses without existing banking relationship with the lender.
    - Expand the list of eligible expenses used to determine loan amount and forgiveness: Include necessary ongoing business costs, such as business insurance, inventory, costs associated with vehicles and equipment (loan payments, insurance, maintenance), costs needed to adapt to pandemic, including safety equipment, retrofitting spaces, and payments to 1099 workers, on whom small businesses rely.
    - Eliminate ineligibility based on criminal records.
    - Open program to all US small businesses that filed 2018 or 2019 tax returns, regardless of citizenship status.
- **Improve accountability and transparency.** Require lenders to collect and report to SBA information on race, national origin, and gender of principal owners of each applicant and each approved loan, and require SBA to publicly release data on applications and approvals by race, national origin, and gender by lender.

Housing

- **The moratorium on evictions and foreclosures for renters and homeowners should be extended for at least six months or the duration of the crisis, if longer**. The moratorium should cover manufactured homes, whether titled as real or personal property, and should prohibit evictions in manufactured homes communities. Although tenants will be responsible for paying back unpaid rent, the law should prohibit rent arrears accumulated during the period covered by the moratorium, from forming the basis of an eviction. This prohibition of evictions or foreclosures should not apply to vacant or abandoned property.

- **Increased funding for rental assistance** to avoid a financial cliff for renters when eviction moratoria are lifted and back-rent is owed.
- **Families must be able to resume payments affordably post forbearance** and without lump sum demands, even for privately held loans.
- **Adequate increased funding should be provided for counseling, legal services, outreach, free advice, and assistance** to all consumers seeking to navigate their financial situation.
- **Adequate increased funding should be provided for fair housing and fair lending enforcement.**
- **Mandated utility relief and broadband access.** Some utility companies are offering voluntary relief. Not all states are issuing consistent orders. This creates a patchwork that is very difficult to navigate and uneven for communities based on place of residency. Rural residents cannot access needed resources due to insufficient broadband services.
- **A dedicated credit facility at the Federal Reserve to ensure liquidity for mortgage servicers** only to provide loan forbearances.
- **A GSE Home Loan Guarantee Program that closes the racial homeownership gap across incomes in the next 10 years**.

Student Debt
- **Broad universal debt forgiveness should be provided for all federal student loan borrowers (including PLUS loan borrowers) with a guaranteed minimum of $20,000 to ensure the benefits of cancellation reach the lowest income and most vulnerable borrowers**. By cancelling at $20,000, we can relieve the burden loan burden of the majority of borrowers who are currently in default, and seriously help the household budgets of millions of others.
- **The relief given to Direct student loan borrowers under CARES 1 should be extended to all borrowers, including Perkins borrowers, borrowers with privately held FFEL Loans, and borrowers with state or private loans**. Nearly nine million borrowers were left with at least one federal loan that is outside of the relief granted by CARES 1, leaving those borrowers without relief at the apex of the pandemic.
- **Immediate relief should be provided to all students who were defrauded by predatory, for-profit colleges, like Corinthian or ITT Tech, and who have pending claims before the Department of Education.** Currently, over 200,000 claims are awaiting review by the Department.
- **All borrowers who were on income-driven repayment, in default or more than 60 days delinquent at the start of the crisis should be auto-enrolled in an income-based repayment plan that sets monthly payments based on 8% of discretionary income above 250% of the poverty line.** This plan should provide tax-free loan forgiveness and discharge of debt after the borrower has made income-based payments for 15 years (including any payments made on IBR prior to the crisis). This should also include borrowers previously in default.
- **For-profit colleges should be restricted in their use of funds.** No stimulus dollars should be used for advertising, market, recruitment, CEO salaries, or stock buybacks. For-profit colleges should also be restricted from receiving funds through the SBA Paycheck Protection Program.
- **Rules regarding online instruction should be enforced and tightened to ensure that quality standards are maintained.**
- **Borrowers attending programs that close must be eligible for a closed school discharge.**

Consumer Credit Protections
- **All overdraft fees should be prohibited during the crisis.**
- **Pause on deregulation of high-cost lending**, **including (1) the CFPB's proposed rescission of its 2017 payday and car title loan rule, and (2) the OCC and FDIC's proposed interest rate rules**, which would broadly preempt state interest rate laws. During this widespread financial crisis, high-cost, short-term, and/or unaffordable loans should not be considered "essential" or any part of an appropriate "emergency" response.
- **Relief Check Protection Program to protect stimulus checks** from (1) payday and car title loans with terms of 45 days or less, and (2) checking account penalty (overdraft and NSF) fees, by prohibiting repayment by the lender or bank from the consumer's account for the 30 days following the best reasonable estimate of the date of deposit of stimulus check.
- **36% rate cap on loans during crisis.** A 36% rate cap for payday, car title, consumer installment and small business loans protects consumers from harmful outcomes, such as bankruptcy and overdraft fees, during uncertain economic times. It also guards against unfair rates and prevents the current public health crisis from driving consumers into a long-term cycle of debt. **All lenders, including depository institutions, should only issue loans that are underwritten and affordably priced at no higher than 36% annual interest for small loans, and at lower rates for larger loans.**

Debt Collection

- **Protect stimulus check money and unemployment benefits from immediate seizure by debt collectors**.
- **The following collection activities should be prohibited for at least three months:** all referrals to debt collectors or sales to debt buyers, all new and existing court filings, garnishments, offsets, repossessions and other ways to seize or deprive the consumer of the use or benefit of wages, income, government payments, bank accounts, cars and other household assets, and any other enforcement actions or adverse actions.
- **Any additional federal aid provided to state or local governments should require suspension of the collection of debts owed or assigned to them**, including criminal fines and fees, medical debt, and student loan debt, and suspension and vacating of consequences for nonpayment such as arrest warrants and suspension of drivers' licenses.
- **Negative credit information should not be reported to the credit bureaus during the crisis**; longer protection periods should be available to those facing lasting financial hardship from the outbreak.

Rulemaking

- **Suspend all federal rulemaking unrelated to the pandemic.** All federal rulemaking other than coronavirus crisis relief or extensions of rules that would otherwise sunset should be suspended immediately.