



## State of Rhode Island and Providence Plantations

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### Attorney General Guidance to Rhode Island Financial Institutions and Credit Unions, Creditors, and Debt Collectors

**AG 2020-03**

**TO:** Rhode Island Financial Institutions and Credit Unions, Creditors, and Debt Collectors

**FROM:** Peter F. Neronha, Attorney General *PFN*

**DATE:** April 28, 2020

**SUBJECT:** **Payments Provided Pursuant to the CARES Act are Exempt from Seizure by Creditors and Debt Collectors**

The Rhode Island Attorney General (RIAG) issues the following guidance concerning payments made to Rhode Islanders pursuant to recent federal legislation.

#### **Background**

Pursuant to the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), direct cash assistance is provided to individuals and families affected by the coronavirus pandemic.<sup>1</sup> Section 2201 of Title II of the CARES Act lays out a means-tested eligibility criteria providing for a one-time cash payment, called a “recovery rebate,” of up to \$1,200 for each eligible individual, plus an additional \$500 per dependent child. Individuals with higher incomes will receive a lesser payment or no payment whatsoever if their incomes are above a certain threshold.

#### **Guidance**

Rhode Island law exempts certain income and property from attachment and execution by creditors. *See generally* R.I.G.L. § 9-26-4. For example, certain funds provided for relief of the poor or in aid of unemployment, public assistance, and particular retirement benefits, cannot be attached or garnished to collect on debts. *See* R.I.G.L. §§ 9-26-4(8)(i), (11), and (12); R.I.G.L. § 40-6-14. Additionally, the law provides that other property may be exempt from attachment and execution by the policy of the law. R.I.G.L. § 9-26-4(10).

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<sup>1</sup> Senators Josh Hawley and Sherrod Brown recently explained in a letter urging the federal government to protect CARES Act payments that “Congress included this critical relief in order to help American families struggling to pay for food, medicine, and other basic necessities during the novel coronavirus-19 (COVID-19) pandemic and resulting economic crisis.” Sherrod Brown and Josh Hawley, Apr. 9, 2020 Letter, *available at*

[https://www.banking.senate.gov/imo/media/doc/Mnuchin%20Letter%20to%20Treasury\\_April%202020.pdf](https://www.banking.senate.gov/imo/media/doc/Mnuchin%20Letter%20to%20Treasury_April%202020.pdf)

Section 9-26-4(10) indicates that the statute exempting many types of property and income was not intended to provide an exhaustive list of items that are exempt from seizure; rather, additional protections will be provided to debtors in certain cases.

A broad construction of Rhode Island's exemption statute advances its purpose, which is to ensure that individuals and families have sufficient income and property to provide for essential needs, such as food and housing. Courts have long construed exemption laws liberally to advance the public purpose of protecting individuals and families with limited household incomes. *See, e.g., In re Tetreault*, 11 A.3d 635, 641 (R.I. 2011). This goal dovetails with the purpose of the CARES Act: to provide means-tested assistance to individuals and families impacted by the COVID-19 pandemic.

It is the Attorney General's opinion that, under Rhode Island law, all CARES Act recovery ("rebate") payments provided to Rhode Islanders under Section 2201 of Title II of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 are exempt from attachment and execution. R.I.G.L. § 9-26-4(10); Section 2201 of Title II of the CARES Act. This Guidance addresses only the exemption of payments made pursuant to Section 2201 of Title II of the CARES Act. This Guidance does not express an opinion on any other exemptions or the status of the CARES Act payments in other contexts.

The Rhode Island Attorney General has broad authority to enforce the laws of the State of Rhode Island and to thereby protect the health, safety and welfare of its citizens. Should a creditor seek to attach a Rhode Islander's CARES Act recovery rebate, in addition to any cause of action that may be brought by debtor, the Attorney General's Office may bring a civil action or seek injunctive relief against a creditor in order to protect Rhode Islanders from unlawful action.