

# ARM Industry Thoughts on the HEROES Act

## About ACA International: The Association of Credit and Collection Professionals

ACA International represents all facets of the accounts receivable management (ARM) industry, including **third-party collections, law firms, asset purchasers, credit grantors, creditors and vendor affiliates.**



**85%** Nearly 85% of ACA members are **small businesses with fewer than 49 employees**, who overwhelmingly support small business clients within their communities.



**70%** While women comprise 70% of the ARM industry (compared to a 47% national average), **32% of ACA member companies are women-owned.**



**1.5+ billion** The U.S. ARM industry contributes **over \$1.5 billion in tax revenue**, reducing the cost of credit for consumers, and plays an integral role in providing financial services within the economy.



**67.6 billion** In 2016, third-party debt collectors **returned \$67.6 billion to U.S. creditors** for goods and services already received by consumers.

**ACA members play a pivotal role** in helping consumers fulfill their obligations, putting them on a path to financial independence. Without the ARM industry, consumers may be unaware of their debt or not know the range of reasonable options available to fulfill their obligations.

**ACA applauds Congress** for helping ACA members do what they do best: support consumers by helping them navigate viable debt solutions. However, the proposed Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act is a step backwards. While it seeks to assist consumers by prohibiting debt collection during the COVID-19 pandemic, the legislation instead threatens the industry's ability to help their creditor clients, including small businesses, community financial institutions, and hospitals, that rely on them to stay afloat and keep Americans employed.

### **Section 110402 will debilitate small businesses in the ARM industry and paralyze the credit cycle necessary for small-business operations**

- » Section 110402 places restrictions on the collection of consumer debt during the COVID-19 pandemic, including limiting fees and interest as well as the suspension of the statute of limitations. It also authorizes punitive liability by 10 times the dollar amount specified in the FDCPA for any violation of new requirements. This provides no obvious benefit directly

to consumers and is counterintuitive given that 85% of the ARM industry is made up of small businesses. These disproportionate penalties would not only detrimentally impact the small collection companies, but also paralyze the credit cycle that is critical to all small-business operations including those of medical providers and community lenders.

- » The legislation also adds all creditors to the definition of a debt collector, making a serious policy shift that sweeps in many new industries and lenders under FDCPA compliance.

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- » It also prohibits creditors' ability to collect past-due legal obligations by way of garnishment, attachment, assignment, deduction, offset, or from wages.
- » These provisions are not narrowly tailored to those directly impacted by COVID-19 but would apply to all consumers. To stop the normal functioning of the credit and collection system for the part of the economy that is still functioning normally only makes it worse for hospitals, utilities, and governments trying to survive and to serve the whole community. For example, many protections are already in place for consumers that are no longer employed at the state level, but this would stop businesses who have been directly impacted by COVID-19 closures from collecting from consumers who are still fully employed and able to fulfill legal obligations.

### **Section 110403 creates a rigid, complex plan that will interfere with the array of hardship programs collections agencies successfully use to help consumers**

- » Section 110403 requires a specific repayment period and forbearance for consumers. It calls for payments in equal monthly installments.
- » It provides specifics concerning dollar amounts owed: \$2,000 or less, 12 months to repay; balances between \$2,001 and \$5,000, 24 months to repay; greater than \$5,000, 36 months to repay.
- » This section also requires an automatic grant of forbearance for consumers after the request and attestation of financial hardship, directly or indirectly related to COVID-19, until the end of the covered periods. No documentation proving the hardship is required.
- » This section creates complexity and rigid guidelines that could interfere with hardship programs and other efforts to create flexibility in providing solutions for a consumer's unique financial situation. It is not clear that any research or data provides evidence that these timeframes or dollar amounts result in any consumer benefit.

### **Section 4021 will create uncertainty around a consumer's credit score and further put him/her in financial turmoil by potentially allowing an individual to borrow more than he/she can afford**

- » Section 4021 prohibits the reporting of medical debt information arising from COVID-19, *regardless* of when the expenses were incurred. This language suggests that the

prohibition would apply to *any* medical debt incurred between March 23, 2020, and the indefinite future.

- » Section 605C also places a moratorium on furnishing adverse credit information during the covered period and 120 days after the date of enactment.
- » Many consumers are unaware of the options they may have to handle their debt obligations and deadlines they face for insurance corrections and charity care. After exhausting other options, credit reporting can be the best way to alert consumers of their outstanding debts. Moreover, consumers could be at risk if they are obtaining unaffordable credit and services during the delayed credit reporting timeframe if this legislation were to become law. Credit providers will not understand a consumer's financial situation if they have an inaccurate credit report.

### **Section 11051 contains ambiguous language, wrongly assumes all student loan borrowers were impacted by COVID-19, and may also hinder a student's ability to consolidate his/her loans in the future**

- » Section 11051 states that a creditor cannot apply "pressure" to a borrower to apply payments to student loan debt. "Pressure" is overbroadly defined as "*any* communication, recommendation, or other similar communication, other than providing basic information about a borrower's options, urging a borrower to make an election." Subtitle C—federal student loan relief also extends the suspension of all payments due on federal student loans through Sept. 30, 2021 and includes all federal student loans regardless of whether they are currently held by the federal government.
- » This means federal Perkins loans serviced by the college/university campuses would be included as well as all FFEL loans. As a result, colleges and the debt collection agencies providing support will be harmed. Additionally, options for loan consolidation may be more limited. Furthermore, this makes the false assumption that all student borrowers have been impacted by COVID-19.

### **Supporters of this legislation say it is designed to help small businesses, but it will decimate the small businesses comprising an industry that drives the entire credit-based economy.**

- » ACA members are committed to developing debt recovery solutions that work. The ARM industry should not be unfairly impugned for the unprecedented economic crisis, despite evidence that it has provided consumer benefits through solutions to financial problems throughout this crisis. Indeed, it is ultimately the ARM industry that will help consumers and small businesses improve their credit, lower the cost of borrowing, and help local economies heal and recover.