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Springing Consumer Rights: Responding to the Federal Government Shutdown and Anticipating Another

March 29, 2019 | Rebecca E. Kuehn and Webb McArthur

On Friday, January 25, the longest federal government shutdown ended. Over the course of the 35-day partial government shutdown, many employees and contractors of the federal government were furloughed and required to work without pay. Approximately 800,000 workers missed paychecks. The Congressional Budget Office has estimated that the shutdown cost the American economy at least $11 billion, not including indirect effects that will last for years. Because of the wide sweep of these effects, state governments have responded in a range of ways, supplementing the voluntary actions of industries that work with consumers affected by the shutdown. States have passed a number of laws, and even post-shutdown, many states continue to consider shut-down related bills. While most of these new laws will not offer protections to consumers affected by this last shutdown, they will lay the groundwork for how various industries-credit, housing, insurance, and others-must respond in the case of future shutdowns.

On January 23, Delaware enacted the Delaware Federal Employees Civil Relief Act, which extends a list of new protections to consumers affected by a shutdown. The Act provides a way for federal employees who are furloughed or required to work without pay during a shutdown to apply to a court or administrative agency for a temporary stay, postponement, or suspension of payments for a range of civil obligations, including rent, mortgages, taxes, insurance premiums, and fines. The Act also protects affected consumers against the termination of certain insurance policies, evictions, and acceleration of credit obligations. Finally, the Act imposes an interest rate limit of 6% per year-unless a court authorizes a higher rate-on credit transactions with affected consumers during a shutdown.

DC adopted the Federal Worker Housing Relief Emergency Act of 2019 on January 26, the day after the shutdown ended. It provides that affected consumers may obtain a stay of an eviction proceeding brought against them for failure to pay rent. It also protects consumers against the imposition of late fees and foreclosure proceedings. Under the law, workers are able to obtain relief for a period after the end of the shutdown.

Connecticut has created a program to incentivize lending to affected consumers. By way of House Bill 5765, Connecticut authorized its Housing Finance Authority to guarantee 10% of certain deferred-payment, interest-free loans made by banks to affected consumers. To be eligible for the guarantee, the law imposes strict requirements on the terms of these loans.

Other states are providing property tax relief. On February 1, New York authorized its local governments to extent property tax deadlines by 90 days for affected consumers. In doing so, the law may provide relief for a future shutdown. Additionally, South Carolina delayed imposition of property tax penalties for real property owned by affected consumers. In contrast to New York, this resolution is specific to 2018 property taxes. But because those taxes were due on January 15-during the shutdown-it provided relief for this recent shutdown.

But even without new state laws, financial services providers have taken it upon themselves to provide relief to affected consumers. Encouraged by a statement issued by the Federal Reserve, the OCC, the CFPB, the NCUA, and the CSBS, many creditors have offered forbearance or deferment programs to affected consumers. Additionally, the nationwide consumer reporting agencies recently announced that they would provide free credit reports-in addition to consumers' free annual file disclosures-to affected consumers. They also encouraged affected consumers participating in forbearance or deferment programs to check whether their credit report contains marks for late payments when they are in one of these programs. Consumer reporting agencies have been counseling creditors on how to report forbearance and deferment plans, which should not result in reporting payments as missed.

Other states continue to consider new laws intended to protect consumers affected by a shutdown. Even though the December and January shutdown has ended, creditors and others that work with consumers should monitor new laws that will affect them and should preemptively implement any policy or procedure changes that will spring into effect if a future shutdown begins because, in all likelihood, this year's shutdown will not be our last.

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