# STATE OF RHODE ISLAND
# OFFICE OF THE ATTORNEY GENERAL

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

**AG 2021-01**

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

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

**DATE:** March 30, 2021

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

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

### Background

Pursuant to the American Rescue Plan Act of 2021 ("American Rescue Plan" or "the Act"), economic impact payments are being provided to individuals and families affected by the COVID-19 pandemic. Section 9601 of the American Rescue Plan lays out a means-tested eligibility criteria for a one-time cash payment in the form of a refundable tax credit, identified as "2021 recovery rebates," of up to $1,400 per person or $2,800 in the case of eligible individuals filing a joint return, plus an additional $1,400 per dependent child. Individuals with higher incomes will receive a lesser payment or no payment whatsoever if their incomes are above a threshold amount.

### 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 low-income earners 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). 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.

This guidance is intended to advance the purpose of Rhode Island's exemption statute, 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 American Rescue Plan 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 American Rescue Plan economic impact payments provided to Rhode Islanders under Section 9601 of the American Rescue Plan, Pub. L. No. 117-2, are exempt from attachment and execution. R.I.G.L. § 9-26-4(10). This Guidance addresses only the exemption of payments made pursuant to Section 9061 of the American Rescue Plan. This Guidance does not express an opinion on any other exemptions or the status of the American Rescue Plan 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 American Rescue Plan economic impact payment, in addition to any cause of action that may be brought by a debtor, the Office of the Attorney General may bring a civil action or seek injunctive relief against a creditor in order to protect Rhode Islanders from unlawful action.