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CONTACT: Erin Macey, Senior Policy Analyst | 317-270-0874 | emacey@incap.org

Governor Holcomb:

Don't Allow Debt Collectors to Seize Stimulus Payments

INDIANAPOLIS -- In response to the COVID-19 pandemic, Congress passed the CARES Act to provide direct payments to all citizens who meet certain income eligibility guidelines. Hoosiers can expect to receive $1,200 per adult and $500 per child if their 2019 or 2018 adjusted gross income falls below $75,000 (single adult) or $150,000 (married). Congress intended these payments to help families meet their basic needs at a time when the country is seeing unprecedented job loss and state unemployment systems are struggling to keep up with new filings. Last week alone, more than 120,000 Hoosiers filed for unemployment, reflecting COVID-19's tremendous impact on Hoosiers' ability to bring home a paycheck.

Debt collectors should not be allowed to take the first cut of these emergency funds. Before the COVID-19 crisis in Indiana, approximately one in three Hoosiers struggled to meet their basic needs and nearly 61% of jobs in Indiana did not pay a self-sufficient wages for a family of three. Nearly the same percentage has a debt in collections with a median amount owed of over $1,700. Meanwhile, some Hoosiers who were not struggling before the crisis may now find themselves in a position of need. Unfortunately, Indiana's limited consumer protection laws leave many Hoosiers vulnerable to creditors' and debt collectors' attempts to seize funds.

While the CARES Act protects stimulus payments from being reduced to pay certain debts owed to federal and state governments, it does not provide clear protection from bank account seizure by other creditors and debt collectors. By filing the proper paperwork, creditors may obtain an immediate hold on debtors' accounts and, because advance notice is not required, many debtors will only learn of the hold when they suddenly cannot access their account. While the law allows the debtor to request a hearing to assert exemptions, when courts are closed and people are ordered to stay at home, this right may be inaccessible. Even if the debtor gets to court, in many circumstances, only $400 may be protected. Attachment of bank accounts will hurt struggling Hoosiers and put public health at risk.

"These funds should be used to meet urgent needs like housing, food, medicine, and utilities, not to satisfy old debts," said Jessica Fraser, Director of Indiana Institute for Working Families. "We are asking Governor Holcomb to use his authority to protect Hoosier families who desperately need this cash infusion."

Governor Holcomb can and should issue an executive order to 1) impose a moratorium on any new garnishment or attachment orders, 2) stay enforcement of any existing attachment / garnishment of bank accounts, 3) prohibit state chartered financial institutions from seizing stimulus checks to repay a debt owed to them, and

4) clarify that stimulus checks are exempt under existing state law and the garnishment of such funds is an unfair and deceptive practice. Indiana Institute for Working Families also joined Indiana Legal Services, Prosperity Indiana, and Neighborhood Christian Legal Clinic in petitioning the Supreme Court to engage its emergency rulemaking authority to protect stimulus payments.

At this extraordinary time, families should be permitted to keep and use funds meant to stabilize their households.

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