



General Assembly

Amendment

January Session, 2023

LCO No. 7280



Offered by:

SEN. LOONEY, 11th Dist.
SEN. DUFF, 25th Dist.
SEN. MILLER P., 27th Dist.
SEN. COHEN, 12th Dist.

SEN. MCCRORY, 2nd Dist.
SEN. MOORE, 22nd Dist.
SEN. WINFIELD, 10th Dist.
SEN. MARONEY, 14th Dist.

To: Subst. Senate Bill No. 1086

File No. 199

Cal. No. 141

"AN ACT CONCERNING COERCED DEBT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2023*) As used in this section
4 and sections 2 to 4, inclusive, of this act:

5 (1) "Claim" means a right to payment, regardless of whether such
6 right is reduced to judgment, liquidated, unliquidated, fixed,
7 contingent, matured, unmatured, disputed, undisputed, legal or
8 equitable;

9 (2) "Claimant" means an individual or an entity that has or purports
10 to have a claim against a debtor arising from coerced debt, or such
11 individual's or entity's successor or assignee. "Claimant" includes, but is
12 not limited to, a debt collector or a debt buyer. "Claimant" does not

13 include an individual who causes a claim to arise through duress,
14 intimidation, threat of force, force, fraud or undue influence perpetrated
15 against a debtor;

16 (3) "Coerced debt" means any unsecured debt, or portion of any
17 unsecured debt, incurred on or after October 1, 2023, for personal,
18 family or household use in the name of a debtor who is a victim of
19 domestic violence, as defined in section 46b-1 of the general statutes, as
20 a result of duress, intimidation, threat of force, force, fraud or undue
21 influence;

22 (4) "Debtor" means an individual who owes or is otherwise liable for
23 coerced debt;

24 (5) "Immediate family member" has the same meaning as defined in
25 section 36a-485 of the general statutes; and

26 (6) "Qualified third-party professional" means a domestic violence
27 counselor or sexual assault counselor, as those terms are defined in
28 section 52-146k of the general statutes, psychiatrist licensed under
29 chapter 370 of the general statutes, psychologist licensed under chapter
30 383 of the general statutes, clinical social worker licensed under chapter
31 383b of the general statutes, a marital and family therapist licensed
32 under chapter 383a of the general statutes, a professional counselor
33 licensed under chapter 383c of the general statutes, or an attorney
34 admitted to the bar of this state and in good standing.

35 Sec. 2. (NEW) (*Effective October 1, 2023*) No individual shall cause
36 another individual to incur a coerced debt. Any individual who causes
37 another individual to incur a coerced debt shall be civilly liable to the
38 claimant for the amount of the coerced debt, or a portion of the coerced
39 debt, determined by a court to be coerced debt, plus the claimant's
40 attorney's fees and costs.

41 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) (1) A claimant shall cease
42 all collection activities until the claimant has completed a review under
43 subsection (c) of this section if the claimant receives:

44 (A) Documentation that identifies a debt, or portion of a debt, as
45 coerced debt, describes the circumstances under which the allegedly
46 coerced debt was incurred and is in the following form:

47 (i) A police report;

48 (ii) A Federal Trade Commission identity theft report that identifies
49 the debt, or a portion of the debt, as coerced debt, but not identity theft;
50 or

51 (iii) A document prepared by a qualified third-party professional that
52 (I) is based on information such qualified third-party professional
53 received while acting in a professional capacity, (II) is certified by such
54 qualified third-party professional in the manner specified in subdivision
55 (2) of this subsection, and (III) displays the letterhead, address and
56 telephone number of the office, institution, center or organization that
57 has engaged or employs such qualified third-party professional
58 regardless of whether such qualified third-party professional is
59 financially compensated, or the letterhead, address and telephone
60 number of such qualified third-party professional if such qualified
61 third-party professional is self-employed; and

62 (B) A document in which a debtor certifies, in the manner set forth in
63 subdivision (2) of this subsection, that a debt, or a portion of a debt, is
64 coerced debt and that any material fact is true; and

65 (C) If relevant to the debtor's allegation that a debt, or a portion of a
66 debt, is coerced debt:

67 (i) A copy of the debtor's driver's license, identification card or any
68 other identification document that supports such allegation;

69 (ii) An express statement by the debtor disclosing (I) that the debtor
70 did not willingly authorize the use of the debtor's name or personal
71 information to incur such debt, (II) specific facts supporting the debtor's
72 allegation, if available, and (III) if the debtor alleges that only a portion
73 of such debt is coerced debt, a statement disclosing the portion of such

74 debt that the debtor alleges is coerced debt;

75 (iii) Any available correspondence disputing the coerced debt;

76 (iv) Any information known by the debtor, including, but not limited
77 to, a credit card number or loan number, that the claimant may use to
78 identify the account associated with such debt and the individual or
79 individuals in whose name such debt was incurred;

80 (v) The identity of the individual or individuals whom the debtor
81 alleges coerced the debtor into incurring such debt and contact
82 information for such individual or individuals, if the debtor knows such
83 contact information, unless the debtor signs a sworn statement that
84 disclosing the following information is likely to result in abuse to the
85 debtor or any immediate family member of the debtor; and

86 (vi) A telephone number that the claimant may use to contact the
87 debtor to obtain additional information from, or pose questions to, the
88 debtor, or, if the debtor prefers to communicate with the claimant in
89 writing, a statement by the debtor indicating that the claimant shall
90 communicate with the debtor exclusively in writing and disclosing the
91 debtor's mailing address.

92 (2) Each certification required under subdivision (1) of this subsection
93 shall be in substantially the following form:

94 "I declare under penalty of perjury that the representations made
95 herein are true, correct, and contain no material omissions of fact.

96 Dated at, Connecticut, this day of, 20...

97 (Signature)"

98 (b) If a debtor orally notifies a claimant that a debt being collected, or
99 a portion of a debt being collected, is coerced debt, the claimant shall
100 notify the debtor, orally or in writing, that the debtor's notification must
101 be in writing and in accordance with subsection (a) of this section. If a
102 debtor notifies a claimant in writing that a debt being collected, or a

103 portion of a debt being collected, is coerced debt, but omits information
104 required by subsection (a) of this section, and if the claimant does not
105 cease collection activities, the claimant shall provide written notice to
106 the debtor of the additional information that is required by subsection
107 (a) of this section.

108 (c) (1) Within ten business days of receiving the items described in
109 subsection (a) of this section, the claimant shall, if the claimant furnished
110 adverse information about the debtor to a consumer credit reporting
111 agency, notify the consumer credit reporting agency that the account is
112 disputed.

113 (2) The claimant shall initiate a review considering all of the
114 information provided by the debtor and other information available to
115 the claimant in its file.

116 (3) Within ten business days of completing the review, the claimant
117 shall notify the debtor in writing of the claimant's determination and the
118 good faith basis for that determination.

119 (4) The claimant shall not recommence collection activities until the
120 debtor has been notified in writing of the good faith determination that
121 the information does not establish that the debt, or a portion of the debt,
122 is coerced debt.

123 (d) No inference or presumption that the debt is valid or invalid, or
124 that the debtor is liable or not liable for the debt, or a portion of the debt,
125 shall arise if the claimant decides after the review described in
126 subsection (c) of this section to cease or recommence collection activities.
127 The exercise or nonexercise of any right under this section is not a
128 waiver of any other right or defense of the debtor or claimant.

129 (e) A claimant that ceases collection activities under this section and
130 does not recommence those collection activities shall:

131 (1) If the claimant has furnished adverse information to a consumer
132 credit reporting agency regarding the debtor and a coerced debt, or a

133 portion of a coerced debt, notify such agency to delete such information
134 not later than ten business days after making its determination; and

135 (2) If the claimant is a debt collector, notify the creditor not later than
136 ten business days after making its determination that collection
137 activities have been terminated based upon the debtor's assertion that a
138 debt being collected, or a portion of a debt being collected, is coerced
139 debt.

140 Sec. 4. (NEW) (*Effective October 1, 2023*) (a) (1) A debtor may bring an
141 action against a claimant to establish that a debt is coerced debt.

142 (2) In any action brought by a claimant against a debtor to recover a
143 debt, the debtor may file a cross complaint to establish that such debt is
144 coerced debt.

145 (b) (1) At least thirty days before filing an action pursuant to
146 subdivision (1) of subsection (a) of this section or other action against a
147 claimant in connection with an allegedly coerced debt, a debtor shall
148 submit a written notice of the debtor's intent to file an action against the
149 claimant and documents that comply with subsection (a) of section 3 of
150 this act in writing to the claimant. For purposes of this subdivision, the
151 thirty-day period shall begin to run when the claimant receives the
152 written notice. The notice described in this subdivision shall not be
153 required as a prerequisite to filing a cross complaint pursuant to
154 subdivision (2) of subsection (a) of this section.

155 (2) The written notice described in subdivision (1) of this subsection
156 shall be sent by certified mail, overnight delivery or other method
157 allowing for confirmation of the delivery date to an address made
158 available to the debtor by the claimant for receipt of the notice, or, if an
159 address has not been identified by the claimant, to the claimant's
160 principal place of business as identified by the Secretary of the State. If
161 an address is unavailable through the Secretary of the State's Internet
162 web site, the debtor may use the correspondence address of the
163 claimant.

164 (3) (A) The debtor shall not commence an action described in
165 subsection (a) of this section or other action against a claimant in
166 connection with an allegedly coerced debt if:

167 (i) The claimant informs the debtor that it has ceased all efforts to
168 collect on the debt, or a portion of the debt, identified in the written
169 notice pursuant to subdivision (1) of this subsection; and

170 (ii) The debtor receives written notice of such cessation before the
171 expiration of the thirty-day period described in subdivision (1) of this
172 subsection.

173 (B) The debtor may commence an action described in subsection (a)
174 of this section or other action against a claimant in connection with an
175 allegedly coerced debt if:

176 (i) The thirty-day period described in subdivision (1) of this
177 subsection expires and the collection activities have not ceased or the
178 debtor has not received written notice that the collection activities have
179 ceased; or

180 (ii) The debtor receives written notice pursuant to subdivision (4) of
181 subsection (c) of section 3 of this act of the claimant's good faith
182 determination that the information does not establish that the debt, or a
183 portion of the debt, is coerced debt.

184 (c) A debtor shall plead the allegations of coerced debt with
185 particularity and shall:

186 (1) Attach the documents provided to the claimant pursuant to
187 subsection (a) of section 3 of this act to any complaint; or

188 (2) Attach the documents identified in subsection (a) of section 3 of
189 this act to any cross complaint.

190 (d) If the debtor establishes by a preponderance of the evidence in an
191 action described in subsection (a) of this section that the debt, or a
192 portion of the debt, is coerced debt, the debtor shall be entitled to the

193 following relief:

194 (1) A declaratory judgment that the debtor is not obligated to the
195 claimant on the debt, or a portion of the debt, that is coerced debt;

196 (2) An injunction prohibiting the claimant from holding or
197 attempting to hold the debtor personally liable on the debt, or a portion
198 of the debt, that is coerced debt, and prohibiting the claimant from
199 enforcing a judgment related to the debt, or a portion of the debt, that is
200 coerced debt against the debtor;

201 (3) An order dismissing any cause of action brought by the claimant
202 to enforce or collect on the coerced debt from the debtor or, if only a
203 portion of the debt is established as coerced debt, an order directing that
204 the complaint and judgment, if any, in the action be amended to reflect
205 only the portion of the debt that is not coerced debt; and

206 (4) A judgment in favor of the claimant against the individual or
207 individuals who coerced the debtor into incurring the debt in the
208 amount of the debt, or a portion of the debt, that is coerced debt,
209 provided the individual or individuals who coerced the debtor into
210 incurring the debt has been brought within the jurisdiction of the court
211 and joined as a party to the action and the evidence supports such a
212 judgment.

213 (e) The court shall take appropriate steps necessary to prevent abuse
214 of the debtor or an immediate family member of the debtor, including,
215 but not limited to, sealing court records, redacting personally
216 identifiable information about the debtor and any immediate family
217 member of the debtor or directing that any deposition or evidentiary
218 hearing be conducted remotely.

219 (f) A debtor who knowingly files false motions, pleadings or other
220 papers or engages in other tactics that are frivolous or intended to cause
221 unnecessary delay against a claimant shall be liable for the claimant's
222 attorney's fees and costs in defending the lawsuit.

223 (g) The claimant may move the court to make written findings
224 regarding evidence related to the individual who caused the coerced
225 debt to be incurred.

226 (h) Where some or all of a claim is established as having arisen from
227 coerced debt, a claimant shall have standing, and may use all rights and
228 remedies, to collect by any lawful means that claim, or portion of that
229 claim, from the individual or individuals determined to have coerced
230 the debt, or against an individual who used or possessed money, goods,
231 services or property obtained through coerced debt.

232 (i) No action by a claimant to collect coerced debt from any individual
233 determined to have coerced the debt shall be brought but within five
234 years of the date when the individual caused the duress, intimidation,
235 threat of force, force, fraud or undue influence giving rise to the coerced
236 debt at issue.

237 (j) Nothing in this section or sections 1 to 3, inclusive, of this act shall:

238 (1) Require a court to order a claimant to refund any moneys already
239 paid on a debt that is determined to be coerced;

240 (2) Diminish the rights of a claimant to recover payment for a coerced
241 debt from the individual or individuals who coerced a debtor into
242 incurring that debt; or

243 (3) Reduce or eliminate any other rights or defenses available to a
244 debtor or claimant pursuant to any other law."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	New section
Sec. 2	October 1, 2023	New section
Sec. 3	October 1, 2023	New section
Sec. 4	October 1, 2023	New section