



General Assembly

Amendment

January Session, 2023

LCO No. 8032



Offered by:

SEN. MILLER P., 27th Dist.
REP. DOUCETTE, 13th Dist.
SEN. BERTHEL, 32nd Dist.
REP. DELNICKI, 14th Dist.
SEN. COHEN, 12th Dist.
SEN. LOONEY, 11th Dist.

SEN. DUFF, 25th Dist.
SEN. WINFIELD, 10th Dist.
SEN. MOORE, 22nd Dist.
SEN. MARONEY, 14th Dist.
SEN. MCCRORY, 2nd Dist.

To: Subst. Senate Bill No. 1086

File No. 199

Cal. No. 141

(As Amended)

"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 entity that has, or purports to

10 have, a claim against a debtor arising from a coerced debt or an allegedly
11 coerced debt, or such individual's or entity's successor or assignee,
12 provided the individual or entity did not cause the claim to arise
13 through duress, intimidation, threat of force, force, fraud or undue
14 influence perpetrated against the debtor. "Claimant" includes, but is not
15 limited to, a debt collector or a debt buyer;

16 (3) "Coerced debt" means any debt in the name of a debtor who is a
17 victim of domestic violence, as defined in section 46b-1 of the general
18 statutes, as a result of duress, intimidation, threat of force, force, fraud
19 or undue influence;

20 (4) "Credit rating agency" has the same meaning as provided in
21 section 36a-695 of the general statutes;

22 (5) "Debt" means an unsecured debt, or any portion of an unsecured
23 debt, incurred on or after October 1, 2023, for personal, family or
24 household use;

25 (6) "Debtor" means an individual against whom a claimant asserts a
26 claim arising from a coerced debt or an allegedly coerced debt;

27 (7) "Immediate family member" has the same meaning as defined in
28 section 36a-485 of the general statutes; and

29 (8) "Qualified third-party professional" means a domestic violence
30 counselor or sexual assault counselor, as those terms are defined in
31 section 52-146k of the general statutes, psychiatrist licensed under
32 chapter 370 of the general statutes, psychologist licensed under chapter
33 383 of the general statutes, clinical social worker licensed under chapter
34 383b of the general statutes, a marital and family therapist licensed
35 under chapter 383a of the general statutes, a professional counselor
36 licensed under chapter 383c of the general statutes, or an attorney
37 admitted to the bar of this state and in good standing who represents or
38 provides consultation to a debtor concerning a coerced debt.

39 Sec. 2. (NEW) (*Effective October 1, 2023*) No individual shall cause

40 another individual to incur a coerced debt. Any individual who causes
41 another individual to incur a coerced debt shall be civilly liable (1) to the
42 claimant for the amount of the coerced debt, or a portion of the coerced
43 debt, determined by a court to be coerced debt, (2) for any attorney's fees
44 and costs incurred by the claimant in recovering such debt, and (3) for
45 any attorney's fees and costs incurred by the debtor in an action
46 described in subsection (a) of section 4 of this act.

47 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) (1) A claimant shall cease
48 all collection activities concerning a debt until the claimant has
49 completed a review under subsection (c) of this section if the claimant
50 receives:

51 (A) Documentation that identifies the debt as a coerced debt,
52 describes the circumstances under which the allegedly coerced debt was
53 incurred and is in the following form:

54 (i) A police report;

55 (ii) A Federal Trade Commission identity theft report that identifies
56 the debt as a coerced debt and not as a debt incurred due to identity
57 theft;

58 (iii) A restraining order or protective order issued by a court of
59 competent jurisdiction; or

60 (iv) A document prepared by a qualified third-party professional that
61 (I) is based on information the qualified third-party professional
62 received while acting in the third-party professional's professional
63 capacity, (II) is certified by the qualified third-party professional in the
64 manner specified in subdivision (2) of this subsection, and (III) displays
65 the letterhead, address and telephone number of the office, institution,
66 center or organization that has engaged or employs the qualified third-
67 party professional regardless of whether such qualified third-party
68 professional is financially compensated, or the letterhead, address and
69 telephone number of such qualified third-party professional if such
70 qualified third-party professional is self-employed;

71 (B) A document in which a debtor certifies, in the manner set forth in
72 subdivision (2) of this subsection, that a debt is a coerced debt and that
73 any material fact is true; and

74 (C) If relevant to the debtor's allegation that a debt is a coerced debt:

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

77 (ii) An express written statement by the debtor disclosing (I) that the
78 debtor did not willingly authorize the use of the debtor's name or
79 personal information to incur such debt, (II) specific facts supporting the
80 debtor's allegation, if available, and (III) if the debtor alleges that only a
81 portion of such debt is a coerced debt, a statement disclosing the portion
82 of such debt that the debtor alleges is a coerced debt;

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

84 (iv) Any information known by the debtor, including, but not limited
85 to, any credit card number or loan number, that the claimant may use to
86 identify the account associated with such debt and the individual or
87 individuals in whose name such debt was incurred;

88 (v) The identity of the individual or individuals whom the debtor
89 alleges coerced the debtor into incurring such debt and contact
90 information for such individual or individuals, if the debtor knows such
91 contact information, unless the debtor signs a sworn statement that
92 disclosing such information is likely to result in abuse to the debtor or
93 any immediate family member of the debtor, except that the debtor shall
94 disclose such information in the event the claimant (I) gives notice to the
95 debtor that the claimant is ceasing collection activities under this section
96 and releasing the debtor from any liability for such debt, and (II) upon
97 giving such notice, requests that the debtor disclose such information;
98 and

99 (vi) A telephone number that the claimant may use to contact the
100 debtor to obtain additional information from, or pose questions to, the

101 debtor, or, if the debtor prefers to communicate with the claimant in
102 writing, a statement by the debtor indicating that the claimant shall
103 communicate with the debtor exclusively in writing and disclosing the
104 debtor's mailing address, electronic mail address or both.

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

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

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

110 (Signature)".

111 (b) If a debtor orally notifies a claimant that a debt being collected is
112 a coerced debt, the claimant shall notify the debtor, orally or in writing,
113 that the debtor's notification must be in writing and in accordance with
114 subsection (a) of this section. If a debtor notifies a claimant in writing
115 that a debt being collected, or a portion of a debt being collected, is
116 coerced debt, but omits any item required by subsection (a) of this
117 section, and if the claimant does not cease collection activities
118 concerning such debt, the claimant shall provide written notice to the
119 debtor identifying such omitted item.

120 (c) (1) Not later than the tenth business day after a claimant receives
121 the items required by subsection (a) of this section, the claimant shall:

122 (A) Perform a good faith review to determine whether the debt
123 identified by the debtor in the documentation provided in accordance
124 with subsection (a) of this section is a coerced debt after considering all
125 information provided by the debtor and all other relevant information
126 available to the claimant; and

127 (B) If the claimant has previously furnished adverse information
128 about the debtor to a credit rating agency, notify such credit rating
129 agency that the debt identified by the debtor in the documentation
130 provided in accordance with subsection (a) of this section is disputed.

131 (2) Not later than the tenth business day after the claimant completes
132 the review pursuant to subdivision (1) of this subsection, the claimant
133 shall notify the debtor, in writing, of the claimant's determination and
134 the good faith basis for such determination.

135 (3) (A) If the claimant determines, in good faith, that the available
136 information establishes that the debt identified by the debtor in the
137 documentation provided in accordance with subsection (a) of this
138 section is coerced debt, the claimant shall cease collection activities
139 against the debtor concerning such coerced debt.

140 (B) A claimant that ceases collection activities under subparagraph
141 (A) of this subdivision and does not recommence such collection
142 activities shall, if the claimant has furnished adverse information to a
143 credit rating agency regarding the debtor in connection with the coerced
144 debt, notify such agency to delete such information. The claimant shall
145 provide such notice not later than the tenth business day after the
146 claimant makes such determination.

147 (4) If the claimant determines, in good faith, that the available
148 information does not establish that the debt identified by the debtor in
149 the documentation provided in accordance with subsection (a) of this
150 section is a coerced debt, the claimant may recommence collection
151 activities concerning such debt. The claimant shall not recommence such
152 collection activities until the claimant notifies the debtor, in writing, of
153 such good faith determination.

154 (d) No inference or presumption that the debt identified by the debtor
155 in the documentation provided in accordance with subsection (a) of this
156 section is valid or invalid, or that the debtor is liable or not liable for
157 such debt shall arise on the basis of the claimant's determination, made
158 after the review performed pursuant to subsection (c) of this section, to
159 cease or recommence collection activities concerning such debt. The
160 exercise or nonexercise of any right under this section is not a waiver of
161 any other right or defense of the debtor or claimant, including, but not
162 limited to, any right or defense that may be asserted against any

163 individual or individuals who coerce a debtor into incurring a debt.

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

166 (B) In any such action, the claimant may:

167 (i) Implead any third party who is or may be liable for the debt that
168 is alleged to be coerced debt, provided such third party is served with a
169 third party complaint not later than one year after the date on which
170 such action is returned to court; and

171 (ii) Assert a cross complaint against any individual or entity that is or
172 may be liable for the debt that is alleged to be a coerced debt.

173 (2) In any action brought by a claimant against a debtor to recover a
174 debt, the debtor may:

175 (A) Assert a counterclaim or defense to establish that such debt is a
176 coerced debt;

177 (B) Implead any third party who is or may be liable for the debt that
178 is alleged to be a coerced debt, provided such third party is served with
179 a third party complaint not later than one year after the date on which
180 such action is returned to court; and

181 (C) Assert a cross complaint to establish that such debt is a coerced
182 debt.

183 (b) (1) Not later than thirty days before commencing an action
184 pursuant to subparagraph (A) of subdivision (1) of subsection (a) of this
185 section, or any other action against a claimant in connection with an
186 allegedly coerced debt, a debtor shall send to the claimant: (A) A written
187 notice to the claimant disclosing the debtor's intent to commence such
188 action against the claimant; and (B) the items set forth in subsection (a)
189 of section 3 of this act. For purposes of this subdivision, the thirty-day
190 period shall commence when the claimant receives the written notice
191 required under this subdivision.

192 (2) The debtor shall send the written notice required under
193 subdivision (1) of this subsection by certified mail, overnight delivery or
194 any other method allowing for confirmation of the date on which such
195 notice is delivered to an address the claimant provides to the debtor for
196 the purpose of receiving such notice, or, if the claimant has not provided
197 any such address, to the claimant's principal place of business as
198 identified on the Secretary of the State's Internet web site. If an address
199 is unavailable through such Internet web site, the debtor may use the
200 claimant's correspondence address.

201 (3) (A) A debtor shall not commence an action under subparagraph
202 (A) of subdivision (1) of subsection (a) of this section, or any other action
203 against a claimant in connection with an allegedly coerced debt, if:

204 (i) The claimant informs the debtor that the claimant has ceased all
205 efforts to collect on the debt identified in the written notice provided
206 pursuant to subdivision (1) of this subsection; and

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

210 (B) A debtor may commence an action under subparagraph (A) of
211 subdivision (1) of subsection (a) of this section, or any other action
212 against a claimant in connection with an allegedly coerced debt, if the
213 debtor receives a written notice pursuant to subdivision (4) of
214 subsection (c) of section 3 of this act disclosing the claimant's good faith
215 determination that the available information does not establish that
216 such allegedly coerced debt is a coerced debt.

217 (c) A debtor shall attach the items set forth in subsection (a) of section
218 3 of this act to any complaint by the debtor alleging that a debt is a
219 coerced debt.

220 (d) If a debtor establishes by a preponderance of the evidence in an
221 action described in subsection (a) of this section that a debt is a coerced
222 debt, the debtor shall be entitled to the following relief:

223 (1) A declaratory judgment that the debtor is not obligated to the
224 claimant for such coerced debt;

225 (2) An injunction prohibiting the claimant from holding or
226 attempting to hold the debtor liable for such coerced debt;

227 (3) An order dismissing any cause of action brought by the claimant
228 to enforce or collect on the coerced debt from the debtor or, if only a
229 portion of the debt at issue is established as coerced debt, an order
230 directing that the complaint and judgment, if any, in such action be
231 amended to reflect only the portion of the debt that is not coerced debt;

232 (4) A judgment in favor of the claimant against the individual who
233 coerced the debtor into incurring such coerced debt, provided the
234 individual who coerced the debtor into incurring such coerced debt has
235 been brought within the jurisdiction of the court and joined as a party
236 to the action and the evidence supports such a judgment;

237 (5) An order awarding the debtor attorney's fees and costs, which
238 shall be paid by the individual or individuals who coerced the debtor
239 into incurring the debt, if such individual or individuals have been
240 made a party or parties to the action; and

241 (6) An order requiring the claimant, if the claimant has furnished
242 adverse information to a credit rating agency regarding the debtor in
243 connection with the coerced debt, to notify such agency to delete such
244 information not later than the tenth business day after the issuance of
245 such order.

246 (e) The court may take appropriate steps necessary to prevent abuse
247 of the debtor or an immediate family member of the debtor, including,
248 but not limited to, sealing court records, redacting personally
249 identifiable information about the debtor and any immediate family
250 member of the debtor or directing that any deposition or evidentiary
251 hearing be conducted remotely.

252 (f) Any party to an action brought under this section who knowingly

253 files false motions, pleadings or other papers, or engages in other tactics
254 that are frivolous or intended to cause unnecessary delay, shall be liable
255 for any attorney's fees and costs incurred because of such filings or other
256 tactics.

257 (g) The claimant or debtor may move the court to make written
258 findings regarding evidence related to any individual who allegedly
259 caused the coerced debt to be incurred, provided any such individual
260 has been brought within the jurisdiction of the court and joined as a
261 party to the action and the evidence supports such findings.

262 (h) Where some or all of a claim is established as having arisen from
263 a coerced debt, a claimant shall have standing, and may use all available
264 rights or remedies, to collect by any lawful means such claim, or portion
265 of such claim, from any individual determined to have coerced the debt,
266 or against any individual who used or possessed any money, goods,
267 services or property obtained through such coerced debt.

268 (i) No action by a claimant to collect coerced debt from any individual
269 who coerced such debt shall be brought but within five years of the date
270 when it is determined, pursuant to a proceeding in a court of competent
271 jurisdiction, that such individual caused the duress, intimidation, threat
272 of force, force, fraud or undue influence giving rise to such coerced debt.

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

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

276 (2) Diminish the rights of a claimant to recover payment for a coerced
277 debt from any individual who coerced a debtor into incurring such
278 coerced debt; or

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

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