

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 385 entitled “An act relating to remedies and
4 protections for victims of coerced debt” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 9 V.S.A. chapter 63, subchapter 13 is added to read:

Subchapter 13. Coerced Debt

9 § 2495a. DEFINITIONS

10 As used in this subchapter:

11 (1) “Adequate documentation” means at least one of the following:

18 (C) a court order finding that the debt was coerced; or

1 information gathered by the third party while acting in their professional
2 capacity.

3 (2) “Coerced debt” means all or a portion of secured or unsecured debt
4 in a debtor’s name that:

5 (A) was incurred in the context of domestic abuse, human trafficking,
6 or the abuse, neglect, or exploitation of a vulnerable adult, and as a result of:

7 (i) the use of the debtor’s personal information without the
8 debtor’s knowledge, authorization, or consent; or

9 (ii) the use or threat of force, intimidation, undue influence, fraud,
10 deception, coercion, or other similar means against the debtor;

11 (B) was not subject to a final judgment in an action for dissolution of
12 marriage or a collection matter that occurred prior to the debtor requesting the
13 creditor to cease all collection efforts against the debtor for such debt in which
14 the court adjudicated the issue of coerced debt on the merits;

15 (C) is not a mortgage loan as defined in 8 V.S.A. § 2101(15);

16 (D) is not a commercial loan as defined in 8 V.S.A. § 2101(2); and

17 (E) with respect to secured debt, only includes the debtor’s liability
18 for any deficiency after the foreclosure, repossession, or surrender and
19 disposition of the subject collateral. [TBD; possible qualifications needed; i.e.,
20 if asset is not reposessed, or cannot be reposessed, etc.]

3 (4) "Debtor" means a person who:

6 (C) is a vulnerable adult who is a survivor of abuse, neglect, or

7 exploitation as those terms are defined under 33 V.S.A. chapter 69.

8 (5) “Domestic abuse” has the same meaning provided in 15 V.S.A.

9 § 1101(1).

10 (6) “Human trafficking” has the same meaning provided in 13 V.S.A.

11 § 2652 or 2653.

12 (7) “Perpetrator of coerced debt” means an individual who causes or is
13 alleged to have caused coerced debt to be incurred by another.

14 (8) “Qualified third party professional” means:

15 (A) an officer of the court or law enforcement personnel;

16 (B) a court appointed special advocate;

19 § 3261(3), at a program that assists older or dependent adults or persons

20 regarding domestic violence, sexual assault, stalking, human trafficking, or

21 abuse of children, and who has relevant training or expertise;

1 (D) a licensed attorney; or

2 (E) a health care provider as defined in 18 V.S.A. § 9402(7).

3 (9)(A) “Statement of coerced debt” means a written statement by a
4 debtor provided by mail to a creditor that includes the following information:

5 (i) identification of the debt, or portion of the debt alleged to be
6 coerced debt;

7 (ii) if available, a description of the circumstances under which the
8 coerced debt was allegedly incurred;

9 (iii) a statement by the debtor disclosing that the debtor did not
10 willingly authorize the use of the debtor’s name or personal information to
11 incur such debt;

12 (iv) any information known by the debtor, including account
13 information or credit card information and the name of the individual in whose
14 name such debt was incurred;

15 (v) the identity of and contact information for the perpetrator of
16 the coerced debt, if known, unless the debtor signs a sworn statement that
17 disclosing such information is likely to result in abuse to the debtor or to a
18 member of the debtor’s immediate family;

19 (vi) the debtor’s preferred contact method and information such as
20 a telephone number, email address, physical address, or safe address for either

1 the debtor or a third party whom the debtor designates to receive information
2 about the coerced debt, which shall be specified by the debtor in writing; and
3 (vii) any other documents the debtor deems appropriate to support
4 the statement.

5 (B) As used in this subdivision, “mail” means certified mail,
6 certificate of mailing, or any other similar first-class mail tracking method used
7 or approved by the U.S. Postal Service, including Intelligent Mail barcode
8 Tracing (IMb Tracing). The term also includes any electronic or digital
9 transmission that provides a verifiable date, timestamp, or tracking capability.

10 (10) “Sworn written certification” means a statement by a qualified third
11 party professional in the following form:

12 CERTIFICATION OF QUALIFIED THIRD PARTY PROFESSIONAL

13 I, (name of qualified third party professional), do hereby
14 certify under penalty of perjury as follows:

15 1. I am a qualified third party professional as defined in 9 V.S.A.
16 § 2495a(8) who has had in-person contact or face-to-face contact through an
17 electronic medium with (name of debtor).

18 2. Based on my professional interactions with the debtor and
19 information presented to me in my professional capacity, I have a reasonable
20 basis to believe (name of debtor) is a survivor of domestic abuse
21 or human trafficking or who is a vulnerable adult who is a survivor of abuse,

1 neglect, or exploitation, and has incurred all or a portion of debt that is coerced
2 debt.

3 3. Based on my professional interactions with the debtor and on
4 information presented to me, I have reason to believe that the circumstances
5 under which the coerced debt was incurred are as follows:

6 4. The following debts or portions of the debts have been identified to
7 me as coerced:

8 I attest that the foregoing is true and correct.

9 (Printed name of qualified third party professional)

10 (Signature of qualified third party professional)

11 (Business address and business telephone)

12 (Date)

13 § 2495b. COERCED DEBT PROHIBITED

14 A person shall not cause another person to incur coerced debt.

15 Substantiated coerced debt is not enforceable against the debtor.

16 § 2495c. CREDITOR'S CONDUCT PURSUANT TO A DEBTOR'S

17 STATEMENT OF COERCED DEBT

18 [TBD: Two options presented]

19 **(1) Upon receipt of a statement of coerced debt and adequate**
20 **documentation, creditor must notify credit reporting agencies the debt is**
21 **disputed and otherwise refrain from all collection activities, unless**

1 creditor obtains a favorable judgment in court. (More closely aligns with
2 the bill as introduced.)

3 (2) Upon receipt of statement of coerced debt and adequate
4 documentation, creditor must review the claim within 30 days and make a
5 determination about whether to cease collection activities permanently
6 (possibly pursue a lawsuit against the perpetrator, if known) or resume
7 collection activities against the debtor, and debtor can seek relief in court.
8 (More closely aligns with draft 1.9, incorporated below.)

9 (a) Within 10 business days following receipt of a debtor's statement of
10 coerced debt and adequate documentation, a creditor shall:

11 (1) cease all collection activities and refrain from selling, assigning, or
12 otherwise transferring for consideration such debt;
13 (2) notify the debtor it has ceased all collection activities [Proposal to
14 strike this requirement or add qualification “pending review of the claim”]; and
15 (3) notify any credit reporting agency to which it furnished adverse
16 information about such debt that the debtor disputes the accuracy of the
17 adverse information.

18 (b) If a debtor notifies a creditor that a particular debt being collected, or
19 portion thereof, is coerced debt, but does not provide all the information
20 required under subsection (a) of this section or provides such notice orally, and
21 if such creditor does not cease such collection activities, then within 10

1 business days after receipt of the debtor's notice of the coerced debt, the
2 creditor shall inform the debtor that additional written information is required
3 and shall provide the debtor with Model Form A-1, as described in subsection
4 (h) of this section.

5 (c) Within 30 business days following receipt of a debtor's statement of
6 coerced debt and adequate documentation, the creditor shall complete a review
7 of all the information provided by the debtor and any other relevant
8 information available to the creditor and, upon completion of the review, make
9 a determination as to whether to accept or dispute the accuracy of the debtor's
10 statement of coerced debt and notify the debtor in writing of its determination
11 and the good faith basis for such determination.

12 (d) Within five business days of making a determination under subsection
13 (c) of this section:

14 (1) if the creditor accepts the accuracy of the statement of coerced debt,
15 the creditor shall contact any consumer reporting agencies to which it
16 furnished adverse information about the debtor's coerced debt and request that
17 such information be deleted from the debtor's file and credit report; or
18 (2) if the creditor disputes the accuracy of the statement of coerced debt
19 and, as a result, will recommence collection activities against the debtor, the
20 creditor shall provide the debtor with written notice of the debtor's right to

1 request reconsideration of the creditor's determination as provided in
2 subsection (e).

3 (e) Within 30 days following the date of mailing of the creditor's
4 determination under subsection (c) of this section, the debtor may request that
5 the creditor reconsider its determination to recommence collection activities.

6 A debtor requesting reconsideration shall be permitted to submit additional
7 documentation [broaden to include "or other relevant information"?]. Within
8 30 days after receiving a request for reconsideration, the creditor shall
9 complete a review of all relevant information, including any additional
10 adequate documentation submitted by the debtor, and make another
11 determination. Any further reconsideration of the creditor's determination
12 shall be at the discretion of the creditor. Submitting a request for
13 reconsideration of a creditor's initial determination is not a required condition
14 for initiating a cause of action for a declaratory judgment to determine that the
15 debt was coerced.

16 (f) All communications from the creditor to a debtor under this section
17 shall be made using only the debtor's preferred contact method and, in
18 addition, the creditor shall make ~~every~~ reasonable ~~effort~~ efforts to use the
19 debtor's preferred language. [TBD]

20 (g) In connection with a statement of coerced debt, the creditor:

1 (1) shall not disclose the contact information the debtor provides in the
2 statement of coerced debt to any other person, including the perpetrator of the
3 coerced debt or joint account holders, without the debtor's express written
4 authorization, unless directed to do so by court order; and

5 (2) may request that the debtor provide the identity of and contact
6 information for the perpetrator of the coerced debt, if known, unless the debtor
7 signs a sworn statement that disclosing such information is likely to result in
8 abuse to the debtor or to a member of the debtor's immediate family.

9 (h) Model Form A-1 shall be developed by the Commissioner of Financial
10 Regulation, posted in English and Spanish on a publicly accessible website
11 maintained by the Department of Financial Regulation, and shall be
12 substantially in the following form:

13 MODEL FORM A-1 FOR CREDITORS TO PROVIDE DEBTORS

14 [Creditor name:

15 Address:

16 Email address:

17 Telephone number:

18 Website URL where this form can be filled out online]

19 [Debtor's name]

20 [Debtor's preferred contact information: debtor may provide a telephone
21 number, email address, physical address, or the address of a third party]

1 [Debtor's preferred language]

2 You have given us information about a debt that may have been taken out
3 because someone used your personal information without your permission or
4 because someone intimidated, threatened, forced, or manipulated you into
5 taking out this debt.

6 For example, an abusive partner could have taken out a credit card or loan
7 in your name without your knowledge or permission or pressured you into
8 taking out credit to buy a car, television, computer, or other item and
9 threatened you with harm if you refused.

10 Questions: To stop collection of this debt, you need to answer the questions
11 below. If you do not know the answer, you can explain why you do not know
12 the answer.

13 1. Did you sign for or agree to the debt?

14 2. If you did sign or agree to the debt, was it because someone threatened
15 you or used intimidation, force, manipulation, theft, or other forms of control
16 to take out the debt in your name? If yes, please describe how it happened.

17 3. If you did not sign or agree to the debt, do you know who used your
18 information to take out the debt? If yes, please describe.

19 4. What is your preferred contact method and contact information? You
20 can provide a telephone number, email address, physical address, safe address,

1 or the contact information of another trusted person you want to receive
2 information for you because you are concerned about your safety.

3 Supporting Documentation: Please include any one of the documents
4 below that show that the debt was taken out by someone who threatened you or
5 used intimidation, force, manipulation, theft, or other forms of control to take
6 out the debt in your name.

7 You only need to send one, but you may provide more than one.

8 1. A police report that includes information about the debt and how it was
9 taken out.

10 2. A copy of an official, valid report filed with a federal, state, or local law
11 enforcement agency, the filing of which subjects the person filing the report to
12 criminal penalties for filing false information if, in fact, the information in the
13 report is false.

14 3. A court order that includes information about the debt and how it was
15 taken out.

16 4. A sworn written certification from a qualified third party professional
17 you talked with about this debt. The statement should include who they are,
18 where they work, their contact information, and information you shared with
19 them about the debt and how it was taken out. The third party may be:

20 (a) an officer of the court or law enforcement personnel;
21 (b) a court appointed special advocate:

1 (c) a crisis worker as defined in 12 V.S.A. § 1614(a)(1); a licensed
2 social worker; or a clinical mental health counselor as defined in 26 V.S.A.
3 § 3261(3), at a program that assists older or dependent adults or persons
4 regarding domestic violence, sexual assault, stalking, human trafficking, or
5 abuse of children, and who has relevant training or expertise;

6 (d) a licensed attorney; or

7 (e) a health care provider as defined in 18 V.S.A. § 9402(7).

8 5. Any other document such as [a divorce decree, restraining order,
9 protection from abuse order] or other document that includes information
10 about the debt and how it was taken out.

11 We need to receive your answers to the above questions and at least one
12 document supporting your claim before we stop collecting on the debt.

13 Within 30 days after we receive this information, we will do all of the
14 following:

15 1. Stop all attempts to collect the coerced debt from you.

16 2. Notify you in writing that we are stopping all attempts to collect the debt
17 from you.

18 3. [TBD] Review your claim and make a determination as to whether you
19 should be relieved from liability for the coerced debt.

20 4. Contact the consumer reporting agencies to which we gave information
21 about you and the coerced debt and request that they remove the information

1 from your file and credit report. Alternatively, we also have the right to
2 challenge your claim of coerced debt in court.

3 If you have questions, please contact us at: [Creditor's name, mailing
4 address, telephone number, and email address]. If you are communicating
5 with us by email, please confirm with us by telephone our correct email
6 address for submitting information about the debt so we can ensure a timely
7 response.

8 For more information, see 9 V.S.A. chapter 63, subchapter 13.

9 § 2495d. CIVIL LEGAL REMEDIES

10 (a) A debtor is not shall not be liable for coerced debt. A debtor may raise
11 as a defense in any forum and by any allowable procedure that a particular
12 debt, or portion thereof, is coerced debt the existence of coerced debt as a
13 defense in any forum and by any procedure otherwise available under law.

14 (b) A debtor establishes a prima facie case that a debt is a coerced debt by
15 providing submitting a statement of coerced debt and adequate documentation.
16 If the a creditor has a good faith basis to believe that the debt is not coerced
17 debt contest such claim, the creditor may seek a court order declaring that the
18 debt is not a coerced debt. In such a suit action, the creditor has the burden to
19 disprove the debt is coerced debt by a preponderance of the evidence bears the
20 burden of proving, by a preponderance of the evidence, that the debt is not a
21 coerced debt.

1 (c) A person who is found adjudicated by a court to be a perpetrator of
2 coerced debt shall be civilly liable to the creditor for the debt. The perpetrator
3 of coerced debt may also be civilly liable to the debtor to the extent that the
4 debtor made payments or incurred costs related to for any payments made or
5 costs incurred by the debtor in connection with the coerced debt.

(d) A creditor may use all legal rights and remedies under state and federal law to collect the recover a coerced debt from the perpetrator of coerced debt. Nothing in this subchapter diminishes the rights of a creditor to seek payment shall be construed to limit a creditor's right to seek recovery from the perpetrator of coerced debt. However, in seeking such recovery, a creditor may not compel a debtor to disclose the identity of or the contact information for the perpetrator of the coerced debt, if to the extent known by the debtor, if provided the debtor signs a sworn statement specifying that disclosing such information is such disclosure is reasonably likely to result in abuse to the debtor or to a member of the debtor's immediate family, unless a debtor is required by court order to provide such information disclosure is required by court order.

18 (e) In any ~~court~~ action involving an alleged coerced debt, the presiding
19 court shall take reasonable and appropriate ~~steps necessary~~ measures to protect
20 the debtor or a member of the debtor's immediate family from an alleged
21 perpetrator of coerced debt ~~by, among other things, including~~ sealing court

1 records, redacting personally identifiable information about the debtor and any
2 immediate family member of the debtor, and directing that any deposition or
3 evidentiary hearing be conducted remotely.

4 (f) The provisions of this subchapter apply to lawsuits filed in in any action
5 brought in a court of this State, regardless of whether a related contract
6 provides that the law of another state is chosen notwithstanding a contractual
7 choice-of-law provision to the extent its application would undermine the
8 debtor-protection provisions of this subchapter or otherwise be contrary to the
9 public policy of the State.

10 (g) Nothing in this subchapter shall prevent a creditor from seeking
11 recourse for a fraudulent claim of coerced debt be construed to preclude a
12 creditor from seeking recourse under applicable law for a claim of coerced
13 debt that is knowingly and materially false.

14 (h) A person alleged to be a perpetrator of coerced debt shall not be a
15 necessary party to an action between a debtor and a creditor under this
16 subchapter. However, no finding in such an action shall be binding on a
17 person who was not a party to the action.

18 (i) The assertion of coerced debt as a defense is not subject to a statute of
19 limitations.

20 (j) An action by a debtor against a perpetrator of coerced debt shall be
21 commenced within six years of the date the debtor discovered or reasonably

1 should have discovered the coerced debt or within six years after the coercion
2 or abuse giving rise to the debt ceased, whichever is later.

3 (k) Notwithstanding any other provision of law to the contrary, any
4 applicable statute of limitations for an action by a creditor against a perpetrator
5 of coerced debt shall be tolled from the time the coercion occurred until the
6 creditor knew or reasonably should have known of the existence of the
7 coercion and the identity of the perpetrator.

8 § 2495e. VIOLATIONS

9 (a) A person who violates this subchapter commits an unfair and deceptive
10 act in trade and commerce in violation of section 2453 of this title.

11 (b) The Attorney General has the same authority to make rules, conduct
12 civil investigations, enter into assurances of discontinuance, and bring civil
13 actions as provided under subchapter 1 of this chapter.

14 § 2495f. CONFIDENTIALITY

15 (a) Except as otherwise expressly provided in this subchapter or required
16 by law, any financial and personally identifying information related to a claim
17 of coerced debt that is shared by a debtor pursuant to the provisions of this
18 subchapter shall not be disclosed by the recipient without the express consent
19 of the debtor, unless such disclosure is authorized by court order.

20 (b) Information or material that is subject to privilege protections under
21 federal or state law that is shared by the debtor pursuant to the provisions of

1 this subchapter shall not be disclosed by the recipient, unless the debtor
2 expressly waives the privilege, or the privilege is waived by an express
3 provision of law.

4 (c) Any records or information produced or acquired by a public body
5 pursuant to the provisions of this subchapter that contains financial or
6 personally identifiable information related to a claim of coerced debt shall be
7 kept confidential and shall be exempt from public inspection or copying under
8 Vermont's Public Records Act. This exemption shall not be subject to 1 V.S.A.
9 § 317(e).

10 Sec. 2. 9 V.S.A. § 2480d is amended to read:

11 § 2480d. PROCEDURE IN CASE OF DISPUTED ACCURACY; COERCED

12 DEBT

13 (a) If the completeness or accuracy of any item of information contained in
14 the consumer's file is disputed by the consumer and the consumer notifies the
15 credit reporting agency directly of such dispute, the agency shall reinvestigate
16 free of charge and record the current status of the disputed information on or
17 before 30 business days after the date the agency receives notice from the
18 consumer.

19 (b) On or before five business days after the date a credit reporting agency
20 receives notice of a dispute from a consumer in accordance with subsection (a)

1 of this section, the agency shall provide notice of the dispute to all persons who
2 provided any item of information in dispute.

3 (c) Notwithstanding subsection (a) of this section, a credit reporting agency
4 may terminate a reinvestigation of information disputed by a consumer under
5 such subsection if the agency reasonably determines that such dispute by the
6 consumer is frivolous or irrelevant. Upon making such a determination, a
7 credit reporting agency shall promptly notify the consumer of such
8 determination and the reasons therefor, by mail, or if authorized by the
9 consumer for that purpose, by telephone. The presence of contradictory
10 information in the consumer’s file does not in and of itself constitute
11 reasonable grounds for determining the dispute is frivolous or irrelevant.

12 (d) In conducting a reinvestigation under subsection (a) of this section, the
13 credit reporting agency shall review and consider all relevant information
14 submitted by the consumer with respect to such disputed information.

15 (e) If, after a reinvestigation under subsection (a) of this section of any
16 information disputed by a consumer, the information is found to be inaccurate
17 or cannot be verified, the credit reporting agency shall promptly delete such
18 information from the consumer’s file. For purposes of this section,
19 “information” shall not include other information in the same item that is not
20 disputed by the consumer.

1 (f) If any information is deleted after a reinvestigation under subsection (a)
2 of this section, the information may not be reinserted in the consumer's file
3 after deletion unless the person who furnishes the information reinvestigates
4 and states in writing or by electronic record to the agency that the information
5 is complete and accurate. Such furnisher shall not provide such statement
6 unless the furnisher reasonably believes that the information is complete and
7 accurate. Upon such reinvestigation and statement by the furnisher, the credit
8 reporting agency shall promptly notify the consumer of any reinsertion.

5 (6) a notification that the consumer has the right, pursuant to 15 U.S.C.
6 § 1681i, to add a statement to the consumer's file disputing the accuracy or
7 completeness of the information.

17 Sec. 3. 9 V.S.A. § 2480k is amended to read:

18 § 2480k. COMPLAINTS TO LAW ENFORCEMENT AGENCIES

19 A person who has learned or reasonably suspects that his or her the person's
20 personal identifying information has been unlawfully used by another, as
21 described in 13 V.S.A. § 2030(a) 2030, may make a complaint about the

1 unlawful use of personal identifying information to the State Police or to the
2 person's local law enforcement agency. The law enforcement agency shall
3 take the complaint and provide the complainant with a copy of the complaint,
4 the name of the law enforcement officer taking the complaint, and an incident
5 number or case number assigned to the complaint by the law enforcement
6 agency. If the suspected crime was committed in a different jurisdiction, the
7 law enforcement agency shall take the complaint and provide the complainant
8 with a copy of the complaint, the name of the law enforcement officer taking
9 the complaint, and an incident number or case number assigned to the
10 complaint by the law enforcement agency and refer the complaint to a law
11 enforcement agency in that different jurisdiction.

12 Sec. 4. EFFECTIVE DATE; APPLICATION

13 This act shall take effect on July 1, 2028, and shall apply to all outstanding
14 coerced debt, including coerced debt incurred prior to July 1, 2028.

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1 (Committee vote: _____)

2 _____

3 Representative _____

4 FOR THE COMMITTEE