

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:

8 Subchapter 13. Coerced Debt

9 § 2495a. DEFINITIONS

10 As used in this subchapter:

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

12 (A) a police report that identifies the coerced debt or a portion thereof

13 and describes the circumstances under which the coerced debt was incurred;

14 (B) a Federal Trade Commission identity theft report a copy of an

15 official, valid report filed with a federal, state, or local law enforcement

16 agency the filing of which subjects the person filing the report to criminal

17 penalties for filing false information if, in fact, the information is

18 false;

19 (C) a court order finding that the debt was coerced

20 court of competent jurisdiction setting forth findings of coerced debt, or

Donald Maurice
Sticky Note

Insert: "regarding the debtor's claim of coerced debt," This is the same phrase used in Sub (D). Otherwise this could be an ID Theft report, which may not be coerced debt, instead it is just identity theft.

1 (D) a sworn written certification from a qualified third party
2 professional regarding the debtor's claim of coerced debt, based on
3 information gathered by the third party while acting in their professional
4 capacity.

5 (E) any other document that demonstrates a person was subject to
6 coerced debt and that supports a debtor's statement of coerced debt.

7 (2) "Coerced debt" means all or a portion of secured or unsecured debt
8 in a debtor's name that:

9 (A) was incurred as a result of:
10 (i) the use of the debtor's personal information without the
11 debtor's knowledge, authorization, or consent; or
12 (ii) the use or threat of force, intimidation, undue influence, fraud,
13 deception, coercion, or other similar means against the debtor;

14 (iii) economic abuse perpetrated against the debtor;
15 (B) was not subject to a final judgment in an action for dissolution of
16 marriage or a collection matter that occurred prior to the debtor requesting the
17 creditor to cease all collection efforts against the debtor for such debt;

18 (C) is not a "mortgage loan" as defined in 8 V.S.A. § 2101(15);
19 (D) is not a commercial loan; and

1 (E) with respect to secured debt, only includes the debtor's liability
2 for any deficiency after the foreclosure, repossession, or surrender and
3 disposition of the subject collateral.

4 (3) "Creditor" means a person, or the person's successor, assignee, or
5 agent, claiming to own or have the right to collect a debt owed by the debtor.

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

7 (A) owes coerced debt; and
8 (B) is a survivor of domestic abuse or human trafficking; or
9 (C) is a vulnerable adult who is a survivor of abuse, neglect, or
10 exploitation as those terms are defined under 33 V.S.A. chapter 69.

11 (5) "Domestic abuse" has the same meaning provided in 15 V.S.A.
12 § 1101(1).

13 (6) "Economic abuse" means behavior that controls, restrains, restricts,
14 impairs, or interferes with the ability of a debtor to acquire, use, or maintain
15 economic resources, including:
16 (A) withholding or restricting access to, or the acquisition of, money,
17 assets, credit, or financial information;
18 (B) interfering with the debtor's ability to work and earn wages; or
19 (C) exerting undue influence over the debtor's financial and
20 economic behavior or decisions.

1 (6) “Human trafficking” has the same meaning provided in 13 V.S.A.
2 § 2652 or 2653.

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

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

6 (A) an officer of the court or law enforcement personnel;
7 (B) a court appointed special advocate;
8 (C) a crisis worker as defined in 12 V.S.A. § 1614(a)(1); a licensed
9 social worker; or a clinical mental health counselor as defined in 26 V.S.A.
10 § 3261(3), at a program that assists older or dependent adults or persons
11 regarding domestic violence, sexual assault, stalking, human trafficking, or
12 abuse of children, and who has relevant training or expertise;
13 (D) a licensed attorney; or
14 (E) a health care provider as defined in 18 V.S.A. § 9402(7).

15 (9)(A) “Statement of coerced debt” means a written statement by a
16 debtor provided by mail to a creditor that includes the following information:
17 (i) identification of the debt, or portion of the debt alleged to be
18 coerced debt;
19 (ii) if available, a description of the circumstances under which the
20 coerced debt was allegedly incurred;

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

11 (vi) the debtor's preferred contact method and information such as
12 a telephone number, email address, physical address, or safe address for either
13 the debtor or a third party whom the debtor designates to receive information
14 about the coerced debt, which shall be specified by the debtor in writing; and

1 transmission that provides a verifiable date, timestamp, or tracking capability.

2 as well as any other written method deemed appropriate by the Commissioner.

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

5 CERTIFICATION OF QUALIFIED THIRD PARTY PROFESSIONAL

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

8 1. I am a qualified third party professional as defined in 9 V.S.A.

9 § 2495a(8) who has had in-person contact or face-to-face contact through an
10 electronic medium with (name of debtor).

11 2. Based on my professional interactions with the debtor and
12 information presented to me in my professional capacity, I have a reasonable
13 basis to believe (name of debtor) is a survivor of domestic abuse
14 economic abuse, or human trafficking or who is a vulnerable adult who is a
15 survivor of abuse, neglect, or exploitation, and has incurred all or a portion of
16 debt that is coerced debt.

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

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

1 I attest that the foregoing is true and correct.

2 (Printed name of qualified third party professional)

3 (Signature of qualified third party professional)

4 (Business address and business telephone)

5 (Date)

6 § 2495b. COERCED DEBT PROHIBITED

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

8 Substantiated coerced debt is not enforceable against the debtor.

9 § 2495c. CREDITOR'S CONDUCT PURSUANT TO A DEBTOR'S

10 STATEMENT OF COERCED DEBT

11 (a) Within 10 business days following receipt of a debtor's statement of

12 coerced debt and adequate documentation, a creditor shall:

13 (1) cease all collection activities and refrain from selling, assigning, or

14 otherwise transferring for consideration such debt;

15 (2) notify the debtor it has ceased all collection activities; and

16 (3) notify any credit reporting agency to which it furnished adverse

17 information about such debt that the debtor disputes the accuracy of the

18 adverse information.

19 (b) If a debtor notifies a creditor that a particular debt being collected, or

20 portion thereof, is coerced debt, but does not provide all the information

21 required under subsection (a) of this section or provides such notice orally, and

1 if such creditor does not cease such collection activities, then within 10
2 business days after receipt of the debtor's notice of the coerced debt, the
3 creditor shall inform the debtor that additional written information is required
4 and shall provide the debtor with Model Form A-1, as described in subsection
5 (h) of this section.

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

13 (d) Within five business days of making a determination under subsection
14 (c) of this section:
15 (1) if the creditor accepts the accuracy of the statement of coerced debt,
16 the creditor shall contact any consumer reporting agencies to which it
17 furnished adverse information about the debtor's coerced debt and request that
18 such information be deleted from the debtor's file and credit report; or
19 (2) if the creditor disputes the accuracy of the statement of coerced debt
20 and, as a result, will recommence collection activities against the debtor, the
21 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. Within 30 days after receiving a request for reconsideration,
8 the creditor shall complete a review of all relevant information, including any
9 additional adequate documentation submitted by the debtor, and make another
10 determination. Any further reconsideration of the creditor's determination
11 shall be at the discretion of the creditor. Submitting a request for
12 reconsideration of a creditor's initial determination is not a required condition
13 for initiating a cause of action for a declaratory judgment to determine that the
14 debt was coerced.

15 (f) All communications from the creditor to a debtor under this section
16 shall be made using only the debtor's preferred contact method and, in
17 addition, the creditor shall make every reasonable effort to use the debtor's
18 preferred language. If the creditor provides oral interpretation services or
19 otherwise communicates with a debtor in any language other than English, the
20 creditor's communications shall be in the debtor's preferred language, orally or
21 in writing, except as otherwise provided in this section.

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

2 (1) shall not disclose the contact information the debtor provides in the

3 statement of coerced debt to any other person, including the perpetrator of the

4 coerced debt or joint account holders, without the debtor's express written

5 authorization, unless directed to do so by court order; and

6 (2) may request that the debtor provide the identity of and contact

7 information for the perpetrator of the coerced debt, if known, unless the debtor

8 signs a sworn statement that disclosing such information is likely to result in

9 abuse to the debtor or to a member of the debtor's immediate family.

10 (h) Model Form A-1 shall be developed by the Commissioner of Financial

11 Regulation, posted in the 12 most common languages in Vermont English and

12 Spanish on a publicly accessible website maintained by the Department of

13 Financial Regulation, and shall be substantially in the following form:

14 MODEL FORM A-1 FOR CREDITORS TO PROVIDE DEBTORS

15 [Creditor name:

16 Address:

17 Email address:

18 Telephone number:

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

20 [Debtor's name]

1 [Debtor's preferred contact information: debtor may provide a telephone
2 number, email address, physical address, or the address of a third party]
3 You have given us information about a debt that may have been taken out
4 because someone used your personal information without your permission or
5 because someone intimidated, threatened, forced, or manipulated you into
6 taking out this debt.

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

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

- 14 1. Did you sign for or agree to the debt?
- 15 2. If you did sign or agree to the debt, was it because someone threatened
16 you or used intimidation, force, manipulation, theft, or other forms of control
17 to take out the debt in your name? If yes, please describe how it happened.
- 18 3. If you did not sign or agree to the debt, do you know who used your
19 information to take out the debt? If yes, please describe.
- 20 4. What is your preferred contact method and contact information? You
21 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 ~~you were in an~~
5 ~~abusive relationship with and~~ threatened you or used intimidation, force,
6 manipulation, theft, or other forms of control to take 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 Federal Trade Commission identity theft report, which you can
11 complete yourself online at idtheft.gov. A copy of an official, valid report filed

12 with a federal, state, or local law enforcement agency, the filing of which
13 subjects the person filing the report to criminal penalties for filing false

14 information if, in fact, the information in the report is false.

15 3. A court order that includes information about the debt, the debtor, and the debt.
16 taken out.

17 4. A sworn written certification from a qualified third party professional
18 you talked with about this debt. The statement should include who they are,
19 where they work, their contact information, and information you shared with

20 them about the debt and how it was taken out. The third party may be:

21 (a) an officer of the court or law enforcement personnel;

1 4. Contact the consumer reporting agencies to which we gave information
2 about you and the coerced debt and request that they remove the information
3 from your file and credit report. Alternatively, we also have the right to
4 challenge your claim of coerced debt in court.

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

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

10 § 2495d. CIVIL LEGAL REMEDIES

11 (a) A debtor is not liable for coerced debt. A debtor may raise as a defense
12 in any forum and by any allowable procedure that a particular debt, or portion
13 thereof, is coerced debt.

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

20 (c) A person who is found by a court to be a perpetrator of coerced debt by
21 a court of competent jurisdiction shall be civilly liable to the creditor. The

1 perpetrator of coerced debt may also be civilly liable to the debtor to the extent
2 that the debtor made payments or incurred costs related to the coerced debt.

3 (d) A creditor may use all legal rights and remedies under state and federal
4 law to collect the coerced debt from the perpetrator of coerced debt. Nothing in
5 this subchapter diminishes the rights of a creditor to seek payment recovery
6 from the perpetrator of coerced debt. However, in seeking such recovery, a
7 creditor may not compel a debtor to disclose the identity of or the contact
8 information for the perpetrator of the coerced debt, if known, if the debtor
9 signs a sworn statement specifying that disclosing such information is likely to
10 result in abuse to the debtor or to a member of the debtor's immediate family,
11 unless a debtor is required by court order to provide such information.

12 **[Incorporated from § 2495e(a), which is stricken in this draft.]**

13 (e) In any court action, the presiding court shall take appropriate steps
14 necessary to protect the debtor or a member of the debtor's immediate family
15 from an alleged perpetrator of coerced debt by, among other things, sealing
16 court records, redacting personally identifiable information about the debtor
17 and any immediate family member of the debtor, and directing that any
18 deposition or evidentiary hearing be conducted remotely.

19 (f) Any creditor who fails to comply with any provision of section 2495e of
20 this subchapter is liable to the debtor in an amount equal to the sum of:

1 (1) any actual damages sustained by the debtor as a result of such

2 noncompliance;

3 (2)(A) in the case of any action by an individual, such additional

4 damages as the court may allow, but not exceeding \$5,000.00 per violation

5 indexed annually for inflation; or

6 (B) in the case of a class action:

7 (i) such amount for each named plaintiff as could be recovered

8 under subdivision (A) of this subdivision (f)(2); and

9 (ii) such amount as the court may allow for all other class

10 members, without regard to a minimum individual recovery, not to exceed the

11 lesser of \$500,000.00 indexed annually for inflation or one per centum of the

12 net worth of the debt collector;

13 (iii) court costs and reasonable attorney's fees as determined by

14 the court; and

15 (iv) punitive damages if the court finds the creditor's

16 noncompliance was willful.

17 (f) The provisions of this subchapter apply to lawsuits filed in this State,

18 regardless of whether a related contract provides that the law of another state is

19 chosen.

1 (g) Nothing in this subchapter shall prevent a creditor from seeking

2 recourse for a fraudulent claim of coerced debt. [Incorporated from

3 **§ 2495e(b), which is now stricken in this draft.]**

4 **§ 2495e. CREDITOR REMEDIES**

5 (a) Nothing in this subchapter diminishes the rights of a creditor to seek

6 payment recovery for a coerced debt from the person who caused the debtor to

7 incur the coerced debt. However, in seeking such recovery, a creditor may not

8 compel a debtor to disclose the identity of or the contact information for the

9 perpetrator of the coerced debt, if known, if the debtor signs a sworn statement

10 specifying that disclosing such information is likely to result in abuse to the

11 debtor or to a member of the debtor's immediate family.

12 (b) Nothing in this subchapter shall prevent a creditor from seeking

13 recourse for a fraudulent claim of coerced debt.

14 **§ 2495e. VIOLATIONS**

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

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

20 **§ 2495f. CONFIDENTIALITY**

1 (a) Except as otherwise expressly provided in this subchapter or required
2 by law, any financial and personally identifying information related to a claim
3 of coerced debt that is shared by a debtor pursuant to the provisions of this
4 subchapter shall not be disclosed by the recipient without the express consent
5 of the debtor.

6 (b) Information or material that is subject to privilege protections under
7 federal or state law that is shared by the debtor pursuant to the provisions of
8 this subchapter shall not be disclosed by the recipient, unless the debtor
9 expressly waives the privilege, or the privilege is waived by an express
10 provision of law.

11 (c) Any records or information produced or acquired by a public body
12 pursuant to the provisions of this subchapter that contains financial or
13 personally identifiable information related to a claim of coerced debt shall be
14 kept confidential and shall be exempt from public inspection or copying under
15 Vermont's Public Records Act. This exemption shall not be subject to 1 V.S.A.
16 § 317(e).

17 See. 2. DEBT COLLECTION RULES

18 On or before January 1, 2027, the Attorney General shall amend Vermont's
19 Consumer Protection Rule 104 on Debt Collection to ensure debt collection
20 practices conform with the requirements of 9 V.S.A. chapter 63, subchapter 13.

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

1 § 2480d. PROCEDURE IN CASE OF DISPUTED ACCURACY: COERCED

DEBT

13 (c) Notwithstanding subsection (a) of this section, a credit reporting agency
14 may terminate a reinvestigation of information disputed by a consumer under
15 such subsection if the agency reasonably determines that such dispute by the
16 consumer is frivolous or irrelevant. Upon making such a determination, a
17 credit reporting agency shall promptly notify the consumer of such
18 determination and the reasons therefor, by mail, or if authorized by the
19 consumer for that purpose, by telephone. The presence of contradictory
20 information in the consumer's file does not in and of itself constitute
21 reasonable grounds for determining the dispute is frivolous or irrelevant.

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

4 (e) If, after a reinvestigation under subsection (a) of this section of any
5 information disputed by a consumer, the information is found to be inaccurate
6 or cannot be verified, the credit reporting agency shall promptly delete such
7 information from the consumer's file. For purposes of this section,
8 "information" shall not include other information in the same item that is not
9 disputed by the consumer.

10 (f) If any information is deleted after a reinvestigation under subsection (a)
11 of this section, the information may not be reinserted in the consumer's file
12 after deletion unless the person who furnishes the information reinvestigates
13 and states in writing or by electronic record to the agency that the information
14 is complete and accurate. Such furnisher shall not provide such statement
15 unless the furnisher reasonably believes that the information is complete and
16 accurate. Upon such reinvestigation and statement by the furnisher, the credit
17 reporting agency shall promptly notify the consumer of any reinsertion.

18 (g) A credit reporting agency shall provide written notice of the results of
19 any reinvestigation under this subsection within five business days of
20 following the completion of the reinvestigation, by mail or, if authorized by the
21 consumer for that purpose, by telephone. This notice shall include:

16 (h) If a consumer provides notice to a consumer reporting agency asserts
17 that a debt or any portion of a debt is the result of coerced debt as defined in
18 subdivision 2495a(3) of this title and provides the consumer reporting agency
19 either a court order of relief pursuant to subsection 2495d(b) of this title
20 finding that the debt was coerced or a statement of coerced debt as defined in
21 subdivision 2495a(10) of this title and adequate documentation as defined in

1 subdivision 2495a(2) of this title, as those terms are defined in subchapter 13
2 of this chapter, the consumer reporting agency shall reinvestigate the debt
3 pursuant to this section. If, after the reinvestigation, it is determined the credit
4 reporting agency determines that the debt is the result of was coerced debt, the
5 consumer reporting agency shall remove any reference to the debt, or any
6 portion of the debt determined to be the result of coerced debt from the
7 consumer's file and credit report.

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

9 § 2480k. COMPLAINTS TO LAW ENFORCEMENT AGENCIES

10 A person who has learned or reasonably suspects that his or her the person's
11 personal identifying information has been unlawfully used by another, as
12 described in 13 V.S.A. § 2030(a) 2030, may make a complaint about the
13 unlawful use of personal identifying information to the State Police or to the
14 person's local law enforcement agency. The law enforcement agency shall
15 take the complaint and provide the complainant with a copy of the complaint,
16 the name of the law enforcement officer taking the complaint, and an incident
17 number or case number assigned to the complaint by the law enforcement
18 agency. If the suspected crime was committed in a different jurisdiction, the
19 law enforcement agency shall take the complaint and provide the complainant
20 with a copy of the complaint, the name of the law enforcement officer taking
21 the complaint, and an incident number or case number assigned to the

1 complaint by the law enforcement agency and refer the complaint to a law
2 enforcement agency in that different jurisdiction.

3 Sec. 4. EFFECTIVE DATE; **APPLICATION**

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

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13 (Committee vote: _____)

14 _____

15 Representative _____

16 FOR THE COMMITTEE