

By: Zaffirini

S.B. No. 836

A BILL TO BE ENTITLED

AN ACT

relating to the collection of consumer debt incurred as a result of identity theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 392, Finance Code, is amended by adding Section 392.308 to read as follows:

Sec. 392.308. CONSUMER VICTIM OF IDENTITY THEFT. (a) For the purposes of this section:

(1) "Identity theft" means:

(A) a violation of Section 521.051, Business & Commerce Code, or a substantially similar federal law or law in another state; or

(B) a criminal offense described by Section 32.51, Penal Code, or a substantially similar federal law or law in another state.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(3) "Vulnerable adult" has the meaning assigned by Section 281.001(5).

(4) "Victim of human trafficking" is a victim of an offense under Section 20A.02, Penal Code.

(b) A creditor, debt collector, or third-party debt collector must not engage in conduct prohibited by Subsection (c) if the consumer provides:

1 (1) a criminal complaint alleging the commission of an
2 offense under Section 32.51, Penal Code, or a substantially similar
3 federal law or law in another state, for which the consumer was a
4 victim accompanied by a statement identifying the consumer debt or
5 portion of consumer debt that is the result of identity theft;

6 (2) a court order issued under Section 521.103,
7 Business & Commerce Code, or a substantially similar federal law or
8 law in another state, declaring the consumer a victim of identity
9 theft; or

10 (3) For victims of family violence, vulnerable adults,
11 or victims of human trafficking, an affidavit or unsworn
12 declaration conforming with Section 132.001, Civil Practices and
13 Remedies Code that is accompanied by:

14 (A) A statement that the consumer is a victim of
15 identify theft;

16 (B) Documentation verifying the consumer's
17 identity, which may include, but is not limited to a copy of the
18 consumer's government issued identification, a driver's license,
19 state issued identification card, or passport;

20 (C) A statement from the consumer identifying the
21 disputed consumer debt or portion of the consumer debt and
22 detailing the circumstances of the identity theft, including how
23 the consumer debt or the affected portion of the consumer debt was
24 incurred; and

25 (D) Documentation that a person is a victim of
26 family violence, a vulnerable adult, or a victim of human
27 trafficking;

1 (i) acceptable documentation that a person
2 is a victim of family violence includes one or more of the documents
3 listed in Section 92.016 (b-1), Property Code.

4 (ii) acceptable documentation that a person
5 is a vulnerable adult includes documentation that the person meets
6 the applicable age or disability definitions under Section 281.001
7 (5).

8 (iii) acceptable documentation that a
9 person is a victim of human trafficking includes one or more of the
10 documents listed in 12 CFR 1022.142 (b) (6) (i).

11 (c) Notwithstanding other provisions in this Chapter, a
12 creditor, debt collector, or third-party debt collector who
13 receives notice that a consumer debt is a result of identity theft
14 from a victim of identity theft in accordance with Subsection (b)
15 shall:

16 (1) immediately cease collection of the disputed
17 consumer debt or any disputed portion of the consumer debt;

18 (2) inform any third-party receiving information
19 about the disputed consumer debt or disputed portion of the
20 consumer debt that the consumer debt or portion of consumer debt is
21 disputed as resulting from identity theft and is not collectable;
22 and

23 (3) not sell or transfer for consideration the
24 disputed consumer debt or the disputed portion of the consumer debt
25 except to the current owner of the consumer debt.

26 SECTION 2. This Act takes effect September 1, 2023.