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By:  Meyer H.B. No. 4641

A BILL TO BE ENTITLED

AN ACT

relating to the collection of consumer debt incurred by certain individuals 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) In this section:

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

(2)  "Human trafficking" means conduct that constitutes an offense under Section 20A.02, Penal Code.

(3)  "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.

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

(b)  A creditor, debt collector, or third-party debt collector may not attempt to collect a consumer debt or a portion of a consumer debt if the consumer provides:

(1)  a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, or a substantially similar federal law or law in another state, for which the consumer was a victim, accompanied by a statement identifying the consumer debt or the portion of consumer debt that resulted from the offense;

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

(3)  if the consumer is a victim of family violence, a victim of human trafficking, or a vulnerable adult, an affidavit or unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

(c)  An affidavit under Subsection (b)(3) must include:

(1)  a statement that the consumer is a victim of identity theft;

(2)  documentation verifying the consumer's identity, including a copy of the consumer's passport or a copy of a driver's license or state identification card issued to the consumer by the Department of Public Safety;

(3)  a statement:

(A)  identifying the consumer debt or affected portion of the consumer debt incurred as a result of identity theft; and

(B)  detailing the circumstances of the identity theft, including how the consumer debt or the affected portion of the consumer debt was incurred; and

(4)  documentation that the consumer is:

(A)  a victim of family violence, as demonstrated by any evidence acceptable under Section 92.016(b-1), Property Code;

(B)  a victim of human trafficking, as demonstrated by:

(i)  a determination from a federal, state, or tribal governmental entity, from a nongovernmental organization, or from a human trafficking task force determining that the consumer is a victim of human trafficking;

(ii)  a determination that the consumer is a victim of human trafficking from a court of competent jurisdiction in a case where the issue of whether the consumer is a victim of human trafficking is a central issue of the case; or

(iii)  a statement attesting that the consumer is a victim of human trafficking, signed or certified by the consumer and an entity in Subparagraph (i) or (ii); or

(C)  a vulnerable adult.

(d)  A creditor, debt collector, or third-party debt collector who receives notice that a consumer debt is a result of identity theft from a victim of identity theft in accordance with Subsection (b):

(1)  shall immediately cease collection efforts related to the disputed portion of the debt;

(2)  shall send to each person who has previously received a report relating to that debt from the creditor, debt collector, or third-party debt collector notice that the debt is disputed under this section and not collectable; and

(3)  may not sell the debt or transfer it for consideration.

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