

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 (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 the portion of consumer debt that resulted from the offense;

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

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

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

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

21 (3) a statement:

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

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

1 (4) documentation that the consumer is:

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

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

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

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

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

18 (C) a vulnerable adult.

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

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

25 (2) shall send to each person who has previously
26 received a report relating to that debt from the creditor, debt
27 collector, or third-party debt collector notice that the debt is

1 disputed under this section and not collectable; and

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

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