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H.B. No. 4238

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, "identity theft" means:

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

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

(b) This section does not apply to consumer debt that is a home loan, as defined by Chapter 343, or to the collection of a judgment already obtained.

(c) A creditor, debt collector, or third-party debt collector may not attempt to collect a consumer debt or a portion of a consumer debt from a consumer 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

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

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

6 (3) a copy of a Federal Trade Commission identity  
7 theft victim's report, completed, signed, and filed by the  
8 consumer:

9 (A) affirming that the consumer is a victim of  
10 identity theft; and

11 (B) identifying the consumer debt or affected  
12 portion of the consumer debt incurred as a result of identity theft.

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

17 (1) shall immediately cease efforts to collect the  
18 disputed debt or disputed portion of the debt from the victim of  
19 identity theft;

20 (2) shall send to each person who has previously  
21 received a report relating to that debt from the creditor, debt  
22 collector, or third-party debt collector notice that the debt is  
23 disputed under this section and not collectible from the victim of  
24 identity theft;

25 (3) may not sell the debt or transfer it for  
26 consideration, except to collect the debt from the alleged  
27 perpetrator of identity theft or from a responsible person other

1 than the victim of identity theft; and

2 (4) may, if the disputed debt or disputed portion of  
3 the debt is secured by tangible personal property, enforce the  
4 security interest under Chapter 9, Business & Commerce Code, but  
5 may not collect or seek to collect any deficiency from the victim of  
6 identity theft.

7 (e) If a creditor, debt collector, or third-party debt  
8 collector has a good faith reason to believe that a consumer has  
9 disputed a consumer debt or portion of a consumer debt under this  
10 section based on a material misrepresentation that the consumer is  
11 a victim of identity theft, the creditor, debt collector, or  
12 third-party debt collector may file suit in a court of competent  
13 jurisdiction to collect the debt from the consumer.

14 (f) In a suit under Subsection (e), the creditor, debt  
15 collector, or third-party debt collector must show by a  
16 preponderance of the evidence that the consumer is not a victim of  
17 identity theft.

18 (g) A creditor, debt collector, or third-party debt  
19 collector has standing to bring and may bring an action to exercise  
20 any right, seek any remedy, or use any lawful means to collect a  
21 consumer debt or a portion of consumer debt that is disputed under  
22 this section from an alleged perpetrator of identity theft who by  
23 means of identity theft obtained, used, or possessed the money,  
24 goods, services, or property of the consumer who is a victim of the  
25 alleged perpetrator's identity theft.

26 SECTION 2. This Act takes effect September 1, 2025.