

A 3038-B Rosenthal Same as [S 1353-B](#) CLEARE
General Business Law

TITLE....Establishes a right of action for claims
arising out of coerced debts

01/23/25 referred to consumer affairs and
protection
03/13/25 amend and recommit to consumer
affairs and protection
03/13/25 print number 3038a
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05/21/25 amend and recommit to codes
05/21/25 print number 3038b
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01/09/25 REFERRED TO CONSUMER
PROTECTION
01/28/25 REPORTED AND COMMITTED TO
JUDICIARY
04/01/25 AMEND AND RECOMMIT TO
JUDICIARY
04/01/25 PRINT NUMBER 1353A
04/29/25 1ST REPORT CAL.773
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05/13/25 PASSED SENATE
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05/22/25 RECALLED FROM ASSEMBLY
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05/22/25 VOTE RECONSIDERED -
RESTORED TO THIRD READING
05/22/25 AMENDED ON THIRD READING
1353B
06/09/25 REPASSED SENATE
06/09/25 RETURNED TO ASSEMBLY
06/09/25 referred to codes
06/11/25 substituted for a3038b
06/11/25 ordered to third reading rules cal.305
06/11/25 passed assembly
06/11/25 returned to senate

S1353-B CLEARE Same as [A 3038-B](#) Rosenthal
ON FILE: 05/22/25 General Business Law

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06/11/25 passed assembly
06/11/25 returned to senate

STATE OF NEW YORK

3038--B

2025--2026 Regular Sessions

IN ASSEMBLY

January 23, 2025

Introduced by M. of A. ROSENTHAL, DAVILA, KELLES, WALKER, SHIMSKY, REYES, BURDICK, STECK, PAULIN, OTIS, HEVESI, TAYLOR, YEGER, GONZALEZ-ROJAS, LEVENBERG, SEAWRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to establishing a right of action for claims arising out of coerced debts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 29-HHH to read as follows:

ARTICLE 29-HHH

ACTIONS INVOLVING COERCED DEBTS

Section 604-aa. Definitions.

604-bb. Notice of coerced debt.

604-cc. Coerced debt cause of action and affirmative defense.

604-dd. Scope.

§ 604-aa. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Action" means any civil judicial proceeding as defined in section one hundred five of the civil practice law and rules.

2. "Adequate documentation of coerced debt" means documentation that identifies a particular debt, or a portion thereof, as coerced debt, describes the circumstances under which such coerced debt was incurred, and takes the form of any of the following:

(a) a police report;

(b) a federal trade commission identity theft report that identifies a particular debt, or portion thereof, as a coerced debt;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD04056-04-5

1 (c) an order from a court of competent jurisdiction setting forth
2 findings of coerced debt; or

3 (d) a written verification, from a qualified third party to whom the
4 debtor reported the coerced debt, which shall be satisfied by any sworn
5 or notarized statement including the required information as well as the
6 name, mailing address, and email address or telephone number, as appli-
7 cable, of such qualified third party's employer or, if self-employed, of
8 such qualified third party.

9 3. "Coerced debt" is debt incurred as a result of economic abuse,
10 including but not limited to, by means of fraud, duress, intimidation,
11 threat, force, coercion, manipulation, or undue influence, the non-con-
12 sensual use of the debtor's personal information.

13 4. "Creditor" means any person, firm, corporation or organization to
14 whom a debt is owed, due, or asserted to be due or owed, or any assignee
15 for value of said person, firm, corporation or organization, including
16 any debt collection agency or debt collector as defined by section six
17 hundred of this chapter; provided, however, that "creditor" shall not
18 include a person to whom a debt is allegedly owed, due, or asserted to
19 be due or owed, where the person asserting such claim caused the debt to
20 arise by engaging in one or more acts of coercion, as identified in
21 subdivision three of this section, against the debtor.

22 5. "Debt" means any obligation or alleged obligation of a consumer to
23 pay money arising out of a transaction in which the money, property,
24 insurance, rental arrears owed for use and occupancy of a dwelling, or
25 services which are the subject of such transaction are primarily for
26 personal, family, or household purposes, whether or not such obligation
27 has been reduced to a judgment.

28 6. "Debtor" means any natural person who owes or who is asserted to
29 owe a debt.

30 7. "Economic abuse", in the context of intimate relationships or
31 relationships between family or household members as defined by section
32 four hundred fifty-nine-a of the social services law, relationships
33 between victims of human trafficking and traffickers, or relationships
34 between children, the elderly, or individuals eligible for protective
35 services under subdivision one of section four hundred seventy-three of
36 the social services law, and their caregivers, means behavior that is
37 coercive, deceptive, manipulative, or that controls, restrains, or
38 sabotages a person's ability to acquire, use, or maintain economic
39 resources to which they are entitled, including but not limited to using
40 coercion, fraud, or manipulation to:

41 (a) restrict a person's access to money, assets, credit, or financial
42 information;

43 (b) unfairly use a person's personal information or personal economic
44 resources, including money, assets, and/or credit; or

45 (c) exert undue influence over a person's financial and economic
46 behavior or decisions, including but not limited to forcing default on
47 joint or other financial obligations, exploiting powers of attorney,
48 guardianship, or conservatorship, or failing or neglecting to act in the
49 best interests of a person to whom one has a fiduciary duty.

50 8. "Personal information" includes, but is not limited to, a name,
51 address, telephone or mobile phone number, driver registration number or
52 non-driver identification card number, social security number, email
53 address, social media profile or screen name, place of employment,
54 employee identification number, mother's maiden name, financial services
55 account number or code, savings account number or code, checking account

1 machine number or code, electronic serial number, any personal identifi-
2 cation number or password of a debtor, and a debtor's personal docu-
3 ments, including, but not limited to, such debtor's driver's license or
4 non-driver identification card, passport, permanent resident card, visa,
5 birth certificate, social security card, and any copies thereof or
6 information contained therein. "Personal identification number or pass-
7 word", as used in this subdivision, means any number or alphanumeric
8 code which may be used alone or in conjunction with any other informa-
9 tion to assume the identity of another person or access financial
10 resources or credit information of another person.

11 9. "Pleading" means any complaint, petition, counterclaim, cross-
12 claim, interpleader complaint, third-party complaint or any similar
13 papers asserting a claim and demand for relief required to be filed with
14 the court pursuant to rule twenty-one hundred two of the civil practice
15 law and rules, the rules of the chief administrator of the courts, or
16 any local rule or practice established by the court.

17 10. "Qualified third party" means any (a) law enforcement officer; (b)
18 employee of a court of the state; (c) attorney, physician, psychiatrist,
19 psychologist, social worker, registered nurse, therapist, or clinical
20 professional counselor licensed to practice in any state; (d) person
21 employed by or working on behalf of a government or non-profit office,
22 agency, or service that advises or provides services to persons regard-
23 ing domestic violence, family violence, human trafficking, or abuse of
24 children, the elderly, or dependent adults; or (e) member of the clergy
25 of a church or religious society or denomination.

26 § 604-bb. Notice of coerced debt. 1. Upon receipt of the following, a
27 creditor shall cease collection activities until completion of the
28 review under subdivision three of this section:

29 (a) adequate documentation of coerced debt; and

30 (b) the debtor's statement that a particular debt being collected, or
31 portion thereof, is coerced debt.

32 2. (a) If a debtor notifies a creditor, either orally or in writing,
33 that a debt is a coerced debt but does not provide the documentation
34 required in subdivision one of this section, or such documentation is
35 insufficient, such creditor shall provide written notice to such debtor
36 that includes the following text:

37 "UNDER NEW YORK GENERAL BUSINESS LAW 604-BB, YOU HAVE THE RIGHT TO
38 DISPUTE DEBT THAT YOU BELIEVE IS COERCED DEBT. A DEBT IS "COERCED" WHEN
39 IT IS INCURRED IN A CONSUMER'S NAME BECAUSE OF THREATS, INTIMIDATION, OR
40 FORCE BY ANOTHER PERSON.

41 TO DISPUTE COERCED DEBT, YOU MUST SUBMIT A "NOTICE OF COERCED DEBT" IN
42 WRITING. THE "NOTICE OF COERCED DEBT" MUST INCLUDE TWO DOCUMENTS:

43 1 - A SWORN OR NOTARIZED STATEMENT BY YOU, THE ALLEGED DEBTOR, STATING
44 THAT A CERTAIN DEBT OR PORTION OF A DEBT BEING COLLECTED IS COERCED
45 DEBT.

46 2 - "ADEQUATE DOCUMENTATION OF COERCED DEBT"

47 TO PROVIDE "ADEQUATE DOCUMENTATION OF COERCED DEBT," YOU ARE REQUIRED
48 TO PROVIDE ONLY ONE OF THE FOLLOWING DOCUMENTS, BUT YOU MAY PROVIDE MORE
49 THAN ONE.

50 1 - A POLICE REPORT

51 2 - A FEDERAL TRADE COMMISSION IDENTITY THEFT REPORT

52 3 - A COURT ORDER FINDING THAT THE DEBT WAS COERCED

53 4 - A NOTARIZED STATEMENT FROM A "QUALIFIED THIRD PARTY" THAT YOU
54 REPORTED THE COERCED DEBT TO.

55 EXAMPLES OF "QUALIFIED THIRD PARTIES" INCLUDE SOCIAL WORKERS AND

1 NON-PROFIT AGENCIES THAT WORK WITH SURVIVORS OF VIOLENCE; MEMBERS OF THE
2 CLERGY; ELECTED OFFICIALS; AND LAW ENFORCEMENT OFFICERS.

3 NO MATTER WHICH FORM OF "ADEQUATE DOCUMENTATION OF COERCED DEBT" YOU
4 PROVIDE, IT MUST IDENTIFY THE PARTICULAR DEBT, STATE THAT IT IS COERCED
5 DEBT, AND DESCRIBE THE CIRCUMSTANCES THAT CAUSED THE DEBT TO BE
6 INCURRED.

7 TO DISPUTE DEBT THAT YOU BELIEVE IS COERCED DEBT, PLEASE SEND THE
8 REQUIRED DOCUMENTS TO (DESIGNATED ADDRESS). AFTER RECEIVING YOUR NOTICE
9 OF COERCED DEBT, WE WILL INVESTIGATE YOUR CLAIM AND RESPOND IN WRITING
10 WITHIN 35 BUSINESS DAYS. FOR MORE INFORMATION, PLEASE CALL (DESIGNATED
11 PHONE NUMBER)."

12 (b) If a debtor notifies a creditor in writing that a particular debt
13 being collected, or portion thereof, is coerced debt, but omits informa-
14 tion under subdivision one of this section, and if such creditor does
15 not cease such collection activities, such creditor shall provide writ-
16 ten notice to such debtor of the additional information that is
17 required.

18 3. (a) Within ten business days of receiving the information under
19 subdivision one of this section, the creditor shall, if such creditor
20 furnishes adverse information about the debtor to a consumer reporting
21 agency, notify such consumer reporting agency that the account is
22 disputed.

23 (b) Within thirty business days of receiving the information under
24 subdivision one of this section, the creditor shall complete a review
25 considering all information provided by the debtor and other information
26 available to such creditor in such creditor's file. In connection with
27 such review and communication of the outcome of such review, the credi-
28 tor shall:

29 (i) neither directly nor indirectly contact the individual accused of
30 causing the coerced debt to be incurred;

31 (ii) use only the contact information the debtor provides with the
32 information under subdivision one of this section when attempting to
33 contact such debtor and shall not use any other contact information,
34 even if associated with the account under review, when attempting to
35 contact such debtor; and

36 (iii) not disclose the documents, information, or contact information
37 the debtor provides with the information under subdivision one of this
38 section to any other person, including, but not limited to, joint
39 account holders, without such debtor's express written authorization.
40 For purposes of this subparagraph, sending documents, information, or
41 contact information the debtor provides under subdivision one of this
42 section to a mailing or electronic mail address other than the one
43 provided by the debtor constitutes unlawful disclosure to a third party,
44 even if such mail or electronic mail address is associated with the
45 account.

46 (c) Within five business days of completing the review under paragraph
47 (b) of this subdivision, a creditor who recommences collection activ-
48 ities based on such review shall notify the debtor in writing of such
49 creditor's determination and the good faith basis for such determi-
50 nation, and shall enclose all documents and information upon which such
51 creditor bases its determination therewith, provided however such
52 documentation shall not include personally identifiable information of
53 another person. Such written notice shall include a notice of the
54 debtor's right to request reconsideration of such determination to
55 recommence collection activities under subdivision four of this section.

1 (d) Within five business days of completing the review under paragraph
2 (b) of this subdivision, a creditor who ceases collection activities
3 under this section and, based on such review, does not recommence such
4 collection activities, shall:

5 (i) notify the debtor in writing that it is ceasing collection activ-
6 ities based on such debtor's claim of coerced debt;

7 (ii) contact any consumer reporting agencies to which it furnishes
8 information about the debtor and the particular debt and instruct such
9 consumer reporting agencies to delete such information; and

10 (iii) if the creditor is also a debt collector or debt collection
11 agency, as defined in section six hundred of this chapter, notify the
12 original creditor that it has ceased collection activities because the
13 debt was found to be a coerced debt.

14 4. A debtor who receives written notice under paragraph (c) of subdi-
15 vision three of this section that the creditor will recommence
16 collection activities against such debtor based on such creditor's
17 determination under subdivision three of this section may make a request
18 to the creditor that the creditor reconsider such determination to
19 recommence collection activities within thirty days of the date of mail-
20 ing of such written determination. A debtor requesting reconsideration
21 of a creditor's determination to recommence collection activities shall
22 be permitted to submit additional adequate documentation of coerced
23 debt, as defined in this article. A creditor who receives a debtors
24 request for reconsideration shall complete a review of all information,
25 including additional adequate documentation submitted, within thirty
26 days of receiving such request. Submitting a request for reconsider-
27 ation of the determination to the creditor shall not be a condition to
28 bringing an action under section six hundred four-cc of this article.

29 5. No inference or presumption that the debt is valid or invalid, or
30 that the debtor is liable or not liable for such debt, shall arise if
31 the creditor decides after completing the review under subdivision three
32 of this section to cease or recommence the debt collection activities.
33 The exercise or non-exercise of rights under this section shall not
34 constitute a waiver of any other right or defense of the debtor, credi-
35 tor, debt collector, or any other person.

36 6. Ceasing collection activities under this section shall not toll the
37 statute of limitations period on any action to collect the debt.

38 7. If at any time any individual or entity, including, but not limited
39 to the creditor, such creditor's assignor, or any assignee, recommences
40 collection activities on the debt after ceasing collection activities on
41 such debt based on such creditor's review of such debtor's notice of
42 coerced debt, such debtor may submit a subsequent notice of coerced
43 debt. A subsequent notice of coerced debt submitted under this subdivi-
44 sion shall be governed by subdivisions one through six of this section.

45 8. A debtor injured by a violation of this section shall have a cause
46 of action against the creditor to recover statutory damages of one thou-
47 sand dollars, actual damages, if any, and the costs and attorneys' fees
48 reasonably incurred in bringing such action.

49 § 604-cc. Coerced debt cause of action and affirmative defense. 1. A
50 person shall not cause another person to incur a coerced debt. A person
51 who causes another person to incur a coerced debt in violation of this
52 subdivision shall be civilly liable to the creditor, and/or the debtor
53 in whose name such coerced debt was incurred if such debtor has already
54 paid all or part of such coerced debt, for the amount of such debt, or
55 portion thereof, determined by the court to be a coerced debt, as well

1 incurred in bringing the action. An action under this subdivision shall
2 be commenced within three years of the later of: (a) the creditor's
3 determination that all or part of such debt is coerced debt; or (b) a
4 court's determination that all or part of such debt is coerced debt.

5 2. (a) A debtor shall have a cause of action against a creditor in any
6 court having jurisdiction to issue a declaratory judgment establishing
7 that a debt or portion of a debt asserted to be owed to such creditor is
8 a coerced debt. Notwithstanding section one thousand one of the civil
9 practice law and rules, any individual alleged to have caused such
10 coerced debt to be incurred shall not be a necessary party to such
11 action. Such action shall not be commenced and maintained unless the
12 following conditions are satisfied:

13 (i) (1) the debtor provides by first class mail with certification of
14 mailing, certified mail, overnight delivery, or other method that allows
15 for confirmation of the date of mailing, the notice of coerced debt or
16 subsequent notice of coerced debt under section six hundred four-bb of
17 this article, provided, however, that receipt of the notice of coerced
18 debt shall not be a condition to bringing such action if it is sent in a
19 properly addressed envelope; and

20 (2) the thirty-day period under paragraph (b) of subdivision three of
21 section six hundred four-bb of this article has expired and the debtor
22 has not received written notice that collection activities have ceased;
23 or

24 (ii) the debtor receives a written determination under paragraph (c)
25 of subdivision three of section six hundred four-bb of this article that
26 the particular disputed debt is not coerced debt.

27 (b) The submission of a request for reconsideration under subdivision
28 four of section six hundred four-bb of this article of the creditor's
29 decision to recommence debt collection activities based on such credi-
30 tor's review of the debtor's notice of coerced debt is not a condition
31 to commencing an action under this subdivision.

32 3. In an action under subdivision two of this section, a debtor shall
33 plead the allegations of coerced debt with particularity and shall
34 attach the documents provided to the creditor pursuant to subdivision
35 one of section six hundred four-bb of this article to any complaint.

36 4. A debtor who establishes by a preponderance of the evidence in an
37 action pursuant to subdivision two of this section that a debt or
38 portion of a debt asserted to be owed to the creditor is coerced debt
39 shall be entitled to the following relief:

40 (a) a declaratory judgment stating that the debt or portion thereof is
41 coerced debt and that the alleged debtor shall not be liable for such
42 coerced debt;

43 (b) an order enjoining or restraining the creditor from holding or
44 attempting to hold the debtor personally liable for the coerced debt or
45 attempting to obtain or enforce any judgment thereon against such debtor
46 and enjoining and restraining all future collection activities with
47 respect to such debt;

48 (c) an order dismissing any other cause of action brought by the cred-
49 itor to enforce or collect the coerced debt from the debtor;

50 (d) if the creditor has furnished adverse information to a consumer
51 reporting agency with respect to such coerced debt, an order directing
52 the creditor to notify such agency to delete all such adverse informa-
53 tion; and

54 (e) the costs and attorneys' fees reasonably incurred in bringing such
55 action.

1 5. In any action by a creditor against a debtor to collect a debt, it
2 shall be an affirmative defense to such action that all or a portion of
3 the debt is coerced debt. Providing notice to the creditor under
4 section six hundred four-bb of this article shall not be a prerequisite
5 to asserting such defense; provided, however, the documents described in
6 subdivision one of section six hundred four-bb of this article shall be
7 annexed to the debtor's answer. A debtor who prevails on an affirmative
8 defense of coerced debt shall be entitled to the costs and attorneys'
9 fees reasonably incurred in defending against the action. Notwithstand-
10 ing section one thousand one of the civil practice law and rules, any
11 individual alleged to have caused such coerced debt to be incurred shall
12 not be or become a necessary party to such action.

13 6. An action pursuant to subdivision two of this section shall be
14 commenced within three years after the date on which the debtor provided
15 the notice of coerced debt pursuant to section six hundred four-bb of
16 this article to the creditor; provided, however, that if such creditor,
17 its assignor, or any assignee recommences collection activities on the
18 debt after ceasing collection activities on such debt based on such
19 creditor's review of the debtor's claim of coerced debt, such debtor
20 shall have the right to file a subsequent notice of coerced debt pursu-
21 ant to subdivision seven of section six hundred four-bb of this article
22 and the statute of limitations shall commence on the date on which such
23 debtor provided such subsequent notice of coerced debt.

24 7. If requested by the debtor, the court presiding over any action in
25 which coerced debt is raised as a claim or affirmative defense shall
26 take appropriate steps necessary to prevent abuse of such debtor or an
27 immediate family member of such debtor, including but not limited to the
28 sealing of court records, the redaction of such debtor's or their imme-
29 diat family member's personal information, and/or directing that any
30 disposition or hearing be held remotely.

31 8. The provisions of this article shall not be construed so as to
32 prevent a creditor from enforcing any claim or collecting judgment aris-
33 ing out of a lawful debt or portion thereof from any other person or
34 entity other than the coerced debtor.

35 9. For debts secured by real or personal property, the private cause
36 of action and affirmative defense authorized by this section shall
37 affect only the debtor's liability for any deficiency after the foreclo-
38 sure, repossession, or surrender and disposition of the subject collat-
39 eral.

40 10. Whenever there shall be a violation of this section, an applica-
41 tion may be made by the attorney general in the name of the people of
42 the state of New York to a court or justice having jurisdiction to issue
43 an injunction, and upon notice to the defendant of not less than five
44 days, to enjoin and restrain the continuance of such violations. If it
45 shall appear to the satisfaction of the court or justice that the
46 defendant has, in fact, violated this section, an injunction may be
47 issued by such court or justice, enjoining or restraining any violation,
48 without requiring proof that any person has, in fact, been injured or
49 damaged thereby. In any such proceeding the court may make allowances to
50 the attorney general as provided in section eighty-three hundred three
51 of the civil practice law and rules, and may make direct restitution. In
52 connection with any such proposed application, the attorney general is
53 authorized to take proof and make a determination of the relevant facts
54 and to issue subpoenas in accordance with the civil practice law and
55 rules. Whenever the court shall determine that a violation of this

1 section has occurred, the court may impose a civil penalty for each
2 violation up to five thousand dollars.

3 § 604-dd. Scope. The provisions of this article shall apply only to a
4 creditor to whom a debt is owed, due, or asserted to be due or owed,
5 where such debt is asserted to be the result of economic abuse. The
6 provisions of this article shall not be construed to impose any duty or
7 liability not expressly provided herein.

8 § 2. This act shall take effect on the ninetieth day after it shall
9 have become a law.

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A3038B

SPONSOR: Rosenthal

TITLE OF BILL:

An act to amend the general business law, in relation to establishing a right of action for claims arising out of coerced debts

PURPOSE:

This legislation will protect survivors of domestic violence and others who have become victims of economic abuse by providing them with a right of action.

SUMMARY OF SPECIFIC PROVISIONS:

Section one amends the general business law by adding a new article 29-1-IHH.

Section two sets forth the effective date.

JUSTIFICATION:

According to the National Coalition Against Domestic Violence; more than 90% of domestic violence survivors have suffered economic abuse. Economic abuse often involves coerced debt, whereby an abuser. threatens, intimidates or otherwise forces a partner to incur debts against their will. Coerced debt may include covertly applying for credit cards or loans in a victim's name or forcing the victim to submit such applications, refinancing a home mortgage or car loan or any other action that would force a victim to engage in a credit-related transaction.

When a person falls victim to coerced debt, it can have devastating impacts on their credit rating and make it increasingly difficult for them to obtain loans, various forms of insurance, housing and other services in the future. Leaving a domestic violence situation is an incredibly unnerving experience, often requiring a person to relocate, secure new housing and employment, navigate legal processes and more. No survivor of domestic violence should also have their finances impacted for years to come due to debt they were forced to incur.

This legislation would ensure that survivors are not held liable for such coerced debt by providing the debtor an opportunity to establish that the debt in question was coerced. Upon a determination that such

debt was coerced; the creditor could be required to cease collection activities and not hold the victim personally liable for the debt.

LEGISLATIVE HISTORY:

2022-23: A.1309-B - Advanced to Third Reading; S.2278-A - Passed Senate

2021-22: A.10667 - Referred to Consumer Affairs and Protection

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

90 days.

STATE OF NEW YORK

3038--B

2025-2026 Regular Sessions

IN ASSEMBLY

January 23, 2025

Introduced by M. of A. ROSENTHAL, DAVILA, KELLES, WALKER, SHIMSKY,

REYES, BURDICK, STECK, PAULIN, OTIS, HEVESI, TAYLOR, YEGER,

GONZALEZ-ROJAS, LEVENBERG, SEAWRIGHT -- read once and referred to the

Committee on Consumer Affairs and Protection -- committee discharged,

bill amended, ordered reprinted as amended and recommitted to said

committee -- reported and referred to the Committee on Codes -- again

reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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1. "Action" means any civil judicial proceeding as defined in section one hundred five of the civil practice law and rules.

2. "Adequate documentation of coerced debt" means documentation that identifies a particular debt,

or a portion thereof, as coerced debt, describes the circumstances under which such coerced debt was incurred, and takes the form of any of the following:

(a) a police report;

(b) a federal trade commission identity theft report that identifies a particular debt, or portion thereof, as a coerced debt;

(c) an order from a court of competent jurisdiction setting forth findings of coerced debt; or

(d) a written verification, from a qualified third party to whom the debtor reported the coerced debt, which shall be satisfied by any sworn or notarized statement including the required information as well as the name, mailing address, and email address or telephone number, as applicable, of such qualified third party's employer or, if self-employed, of such qualified third party.

3. "Coerced debt" is debt incurred as a result of economic abuse, including but not limited to, by means of fraud, duress, intimidation, threat, force, coercion, manipulation, or undue influence, the non-consensual use of the debtor's personal information.

4. "Creditor" means any person, firm, corporation or organization to whom a debt is owed, due, or asserted to be due or owed, or any assignee for value of said person, firm, corporation or organization, including any debt collection agency or debt collector as defined by section six hundred of this chapter; provided, however, that "creditor" shall not include a person to whom a debt is allegedly owed, due, or asserted to be due or owed, where the person asserting such claim caused the debt to arise by engaging in one or more acts of coercion, as identified in subdivision three of this section, against the debtor.

5. "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, rental arrears owed for use and occupancy of a dwelling, or services which are the subject of such transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to a judgment.

6. "Debtor" means any natural person who owes or who is asserted to owe a debt.

7. "Economic abuse", in the context of intimate relationships or relationships between family or household members as defined by section four hundred fifty-nine-a of the social services law, relationships between victims of human trafficking and traffickers, or relationships between children, the elderly, or individuals eligible for protective services under subdivision one of section four hundred seventy-three of the social services law, and their caregivers, means behavior that is coercive, deceptive, manipulative, or that controls, restrains, or sabotages a person's ability to acquire, use, or maintain economic resources to which they are entitled, including but not limited to using coercion, fraud, or manipulation to:

(a) restrict a person's access to money, assets, credit, or financial information;

(b) unfairly use a person's personal information or personal economic resources, including money, assets, and/or credit; or

(c) exert undue influence over a person's financial and economic behavior or decisions, including but not limited to forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

8. "Personal information" includes, but is not limited to, a name, address, telephone or mobile phone number, driver registration number or non-driver identification card number, social security number, email address, social media profile or screen name, place of employment, employee identification number, mother's maiden name, financial services account number or code, savings account number or code, checking account number or code, debit or credit card number or code, automated teller machine number or code, electronic serial number, any personal identification number or password of a debtor, and a debtor's personal documents, including, but not limited to, such debtor's driver's license or non-driver identification card, passport, permanent resident card, visa, birth certificate, social security card, and any copies thereof or information contained therein. "Personal identification number or password", as used in this subdivision, means any number or alphanumeric code which may be used alone or in conjunction with any other information to assume the identity of another person or access financial resources or credit information of another person.

9. "Pleading" means any complaint, petition, counterclaim, cross-claim, interpleader complaint, third-party complaint or any similar papers asserting a claim and demand for relief required to be filed with the court pursuant to rule twenty-one hundred two of the civil practice law and rules, the rules of the chief administrator of the courts, or any local rule or practice established by the court.

10. "Qualified third party" means any (a) law enforcement officer; (b) employee of a court of the state; (c) attorney, physician, psychiatrist, psychologist, social worker, registered nurse, therapist, or clinical professional counselor licensed to practice in any state; (d) person employed by or working on behalf of a government or non-profit office, agency, or service that advises or provides services to persons regarding domestic violence, family violence, human trafficking, or abuse of children, the elderly, or dependent adults; or (e) member of the clergy of a church or religious society or denomination.

§ 604-bb. Notice of coerced debt. 1. Upon receipt of the following, a creditor shall cease collection activities until completion of the review under subdivision three of this section:

(a) adequate documentation of coerced debt; and

(b) the debtor's statement that a particular debt being collected, or portion thereof, is coerced debt.

2. (a) If a debtor notifies a creditor, either orally or in writing, that a debt is a coerced debt but does not provide the documentation required in subdivision one of this section, or such documentation is insufficient, such creditor shall provide written notice to such debtor that includes the following text:

"UNDER NEW YORK GENERAL BUSINESS LAW 604-BB, YOU HAVE THE RIGHT TO DISPUTE DEBT THAT YOU BELIEVE IS COERCED DEBT. A DEBT IS "COERCED" WHEN IT IS INCURRED IN A CONSUMER'S NAME BECAUSE OF THREATS, INTIMIDATION, OR FORCE BY ANOTHER PERSON.

TO DISPUTE COERCED DEBT, YOU MUST SUBMIT A "NOTICE OF COERCED DEBT" IN WRITING. THE "NOTICE OF COERCED DEBT" MUST INCLUDE TWO DOCUMENTS:

1 - A SWORN OR NOTARIZED STATEMENT BY YOU, THE ALLEGED DEBTOR, STATING THAT A CERTAIN DEBT OR PORTION OF A DEBT BEING COLLECTED IS COERCED DEBT.

2 - "ADEQUATE DOCUMENTATION OF COERCED DEBT"

TO PROVIDE "ADEQUATE DOCUMENTATION OF COERCED DEBT," YOU ARE REQUIRED TO PROVIDE ONLY ONE OF THE FOLLOWING DOCUMENTS, BUT YOU MAY

PROVIDE MORE THAN ONE.

1 - A POLICE REPORT

2 - A FEDERAL TRADE COMMISSION IDENTITY THEFT REPORT

3 - A COURT ORDER FINDING THAT THE DEBT WAS COERCED

4 - A NOTARIZED STATEMENT FROM A "QUALIFIED THIRD PARTY" THAT YOU REPORTED THE COERCED DEBT TO.

EXAMPLES OF "QUALIFIED THIRD PARTIES" INCLUDE SOCIAL WORKERS AND ATTORNEYS; DOCTORS, NURSES, AND THERAPISTS; EMPLOYEES FROM GOVERNMENT OR NON-PROFIT AGENCIES THAT WORK WITH SURVIVORS OF VIOLENCE; MEMBERS OF THE CLERGY; ELECTED OFFICIALS; AND LAW ENFORCEMENT OFFICERS.

NO MATTER WHICH FORM OF "ADEQUATE DOCUMENTATION OF COERCED DEBT" YOU PROVIDE, IT MUST IDENTIFY THE PARTICULAR DEBT, STATE THAT IT IS COERCED DEBT, AND DESCRIBE THE CIRCUMSTANCES THAT CAUSED THE DEBT TO BE INCURRED.

TO DISPUTE DEBT THAT YOU BELIEVE IS COERCED DEBT, PLEASE SEND THE REQUIRED DOCUMENTS TO (DESIGNATED ADDRESS). AFTER RECEIVING YOUR NOTICE OF COERCED DEBT, WE WILL INVESTIGATE YOUR CLAIM AND RESPOND IN WRITING WITHIN 35 BUSINESS DAYS. FOR MORE INFORMATION, PLEASE CALL (DESIGNATED PHONE NUMBER)."

(b) If a debtor notifies a creditor in writing that a particular debt being collected, or portion thereof, is coerced debt, but omits information under subdivision one of this section, and if such creditor does not cease such collection activities, such creditor shall provide written notice to such debtor of the additional information that is required.

3. (a) Within ten business days of receiving the information under subdivision one of this section, the creditor shall, if such creditor furnishes adverse information about the debtor to a consumer reporting agency, notify such consumer reporting agency that the account is disputed.

(b) Within thirty business days of receiving the information under subdivision one of this section, the creditor shall complete a review considering all information provided by the debtor and other information available to such creditor in such creditor's file. In connection with such review and communication of the outcome of such review, the creditor shall:

(i) neither directly nor indirectly contact the individual accused of causing the coerced debt to be incurred;

(ii) use only the contact information the debtor provides with the information under subdivision one of this section when attempting to contact such debtor and shall not use any other contact information, even if associated with the account under review, when attempting to contact such debtor; and

(iii) not disclose the documents, information, or contact information the debtor provides with the information under subdivision one of this section to any other person, including, but not limited to, joint account holders, without such debtor's express written authorization. For purposes of this subparagraph, sending documents, information, or contact information the debtor provides under subdivision one of this section to a mailing or electronic mail address other than the one provided by

the debtor constitutes unlawful disclosure to a third party, even if such mail or electronic mail address is associated with the account.

(c) Within five business days of completing the review under paragraph (b) of this subdivision, a creditor who recommences collection activities based on such review shall notify the debtor in writing of such creditor's determination and the good faith basis for such determination, and shall enclose all documents and information upon which such creditor bases its determination therewith, provided however such documentation shall not include personally identifiable information of another person. Such written notice shall include a notice of the debtor's right to request reconsideration of such determination to recommence collection activities under subdivision four of this section.

(d) Within five business days of completing the review under paragraph (b) of this subdivision, a creditor who ceases collection activities under this section and, based on such review, does not recommence such collection activities, shall:

(i) notify the debtor in writing that it is ceasing collection activities based on such debtor's claim of coerced debt;

(ii) contact any consumer reporting agencies to which it furnishes information about the debtor and the particular debt and instruct such consumer reporting agencies to delete such information; and

(iii) if the creditor is also a debt collector or debt collection agency, as defined in section six hundred of this chapter, notify the original creditor that it has ceased collection activities because the debt was found to be a coerced debt.

4. A debtor who receives written notice under paragraph (c) of subdivision three of this section that the creditor will recommence collection activities against such debtor based on such creditor's determination under subdivision three of this section may make a request to the creditor that the creditor reconsider such determination to recommence collection activities within thirty days of the date of mailing of such written determination. A debtor requesting reconsideration of a creditor's determination to recommence collection activities shall be permitted to submit additional adequate documentation of coerced debt, as defined in this article. A creditor who receives a debtors request for reconsideration shall complete a review of all information, including additional adequate documentation submitted, within thirty days of receiving such request. Submitting a request for reconsideration of the determination to the creditor shall not be a condition to bringing an action under section six hundred four-cc of this article.

5. No inference or presumption that the debt is valid or invalid, or that the debtor is liable or not liable for such debt, shall arise if the creditor decides after completing the review under subdivision three of this section to cease or recommence the debt collection activities. The exercise or non-exercise of rights under this section shall not constitute a waiver of any other right or defense of the debtor, creditor, debt collector, or any other person.

6. Ceasing collection activities under this section shall not toll the statute of limitations period on any action to collect the debt.

7. If at any time any individual or entity, including, but not limited to the creditor, such creditor's assignor, or any assignee, recommences collection activities on the debt after ceasing collection activities on such debt based on such creditor's review of such debtor's notice of coerced debt, such debtor may submit a subsequent notice of coerced debt. A subsequent notice of coerced debt submitted under this subdivision shall be governed by subdivisions one through six of this section.

8. A debtor injured by a violation of this section shall have a cause of action against the creditor to recover statutory damages of one thousand dollars, actual damages, if any, and the costs and attorneys' fees reasonably incurred in bringing such action.

§ 604-cc. Coerced debt cause of action and affirmative defense. 1. A person shall not cause another person to incur a coerced debt. A person who causes another person to incur a coerced debt in violation of this subdivision shall be civilly liable to the creditor, and/or the debtor in whose name such coerced debt was incurred if such debtor has already paid all or part of such coerced debt, for the amount of such debt, or portion thereof, determined by the court to be a coerced debt, as well as such creditor's and/or debtor's costs and attorneys' fees reasonably incurred in bringing the action. An action under this subdivision shall be commenced within three years of the later of: (a) the creditor's determination that all or part of such debt is coerced debt; or (b) a court's determination that all or part of such debt is coerced debt.

2. (a) A debtor shall have a cause of action against a creditor in any court having jurisdiction to issue a declaratory judgment establishing that a debt or portion of a debt asserted to be owed to such creditor is a coerced debt. Notwithstanding section one thousand one of the civil practice law and rules, any individual alleged to have caused such coerced debt to be incurred shall not be a necessary party to such action. Such action shall not be commenced and maintained unless the following conditions are satisfied:

(i) (1) the debtor provides by first class mail with certification of mailing, certified mail, overnight delivery, or other method that allows for confirmation of the date of mailing, the notice of coerced debt or subsequent notice of coerced debt under section six hundred four-bb of this article, provided, however, that receipt of the notice of coerced debt shall not be a condition to bringing such action if it is sent in a properly addressed envelope; and

(2) the thirty-day period under paragraph (b) of subdivision three of section six hundred four-bb of this article has expired and the debtor has not received written notice that collection activities have ceased; or

(ii) the debtor receives a written determination under paragraph (c) of subdivision three of section six hundred four-bb of this article that the particular disputed debt is not coerced debt.

(b) The submission of a request for reconsideration under subdivision four of section six hundred four-bb of this article of the creditor's decision to recommence debt collection activities based on such creditor's review of the debtor's notice of coerced debt is not a condition to commencing an action under this subdivision.

3. In an action under subdivision two of this section, a debtor shall plead the allegations of coerced debt with particularity and shall attach the documents provided to the creditor pursuant to subdivision one of section six hundred four-bb of this article to any complaint.

4. A debtor who establishes by a preponderance of the evidence in an action pursuant to subdivision two of this section that a debt or portion of a debt asserted to be owed to the creditor is coerced debt shall be entitled to the following relief:

(a) a declaratory judgment stating that the debt or portion thereof is coerced debt and that the alleged debtor shall not be liable for such coerced debt;

(b) an order enjoining or restraining the creditor from holding or attempting to hold the debtor personally liable for the coerced debt or attempting to obtain or enforce any judgment thereon against

such debtor and enjoining and restraining all future collection activities with respect to such debt;

(c) an order dismissing any other cause of action brought by the creditor to enforce or collect the coerced debt from the debtor;

(d) if the creditor has furnished adverse information to a consumer reporting agency with respect to such coerced debt, an order directing the creditor to notify such agency to delete all such adverse information; and

(e) the costs and attorneys' fees reasonably incurred in bringing such action.

5. In any action by a creditor against a debtor to collect a debt, it shall be an affirmative defense to such action that all or a portion of the debt is coerced debt. Providing notice to the creditor under section six hundred four-bb of this article shall not be a prerequisite to asserting such defense; provided, however, the documents described in subdivision one of section six hundred four-bb of this article shall be annexed to the debtor's answer. A debtor who prevails on an affirmative defense of coerced debt shall be entitled to the costs and attorneys' fees reasonably incurred in defending against the action. Notwithstanding section one thousand one of the civil practice law and rules, any individual alleged to have caused such coerced debt to be incurred shall not be or become a necessary party to such action.

6. An action pursuant to subdivision two of this section shall be commenced within three years after the date on which the debtor provided the notice of coerced debt pursuant to section six hundred four-bb of this article to the creditor; provided, however, that if such creditor, its assignor, or any assignee recommences collection activities on the debt after ceasing collection activities on such debt based on such creditor's review of the debtor's claim of coerced debt, such debtor shall have the right to file a subsequent notice of coerced debt pursuant to subdivision seven of section six hundred four-bb of this article and the statute of limitations shall commence on the date on which such debtor provided such subsequent notice of coerced debt.

7. If requested by the debtor, the court presiding over any action in which coerced debt is raised as a claim or affirmative defense shall take appropriate steps necessary to prevent abuse of such debtor or an immediate family member of such debtor, including but not limited to the sealing of court records, the redaction of such debtor's or their immediate family member's personal information, and/or directing that any disposition or hearing be held remotely.

8. The provisions of this article shall not be construed so as to prevent a creditor from enforcing any claim or collecting judgment arising out of a lawful debt or portion thereof from any other person or entity other than the coerced debtor.

9. For debts secured by real or personal property, the private cause of action and affirmative defense authorized by this section shall affect only the debtor's liability for any deficiency after the foreclosure, repossession, or surrender and disposition of the subject collateral.

10. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations. If it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining or restraining any violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding the court may make allowances to the attorney

general as provided in section eighty-three hundred three of the civil practice law and rules, and may make direct restitution. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty for each violation up to five thousand dollars.

§ 604-dd. Scope. The provisions of this article shall apply only to a creditor to whom a debt is owed, due, or asserted to be due or owed, where such debt is asserted to be the result of economic abuse. The provisions of this article shall not be construed to impose any duty or liability not expressly provided herein.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.