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# THE “ROSENTHAL EFFECT”

*MIA WOLFE, SENIOR COUNSEL*



SHENKER RUSSO  
& CLARK LLP

# ROSENTHAL FDCPA (1977)

- Prohibition on Unfair and Abusive Conduct
  - Threats with No Legal Basis
  - Harassing Behaviors/Publication to 3<sup>rd</sup> Parties
  - Impersonating a Court or Attorney
  - Collecting “Stale” or Unowed Debt
- Application to Original Creditors
- Venue Provisions
- ID Theft Claims (2003, A.B.1294)
- Required Disclosures & Validation Information (1999, A.B.969)



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# 2025 CALIF. S.B.1286: APPLICATION TO “COVERED COMMERCIAL DEBT/CREDIT”

- Owed by a natural person
  - Either primarily
  - OR as personal guarantor
- Not more than \$500k
- Applies to debt “entered into, renewed, or sold or assigned” after **July 1, 2025.**



# CONCLUSIONS

- 2025 Rosenthal Amendments are not propelling changes in Northeast debt collection statutes and legislation. **Rosenthal is the outlier so far.**
- Reforms since 2024 mostly
  - stay consumer-only,
  - target pre-origination disclosures/registrations, or
  - expand UDAAP tools in ways not aimed at collections.



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- Trump admin. rollback of federal enforcement by FTC & CFPB are the more-proximate causes of new state-level innovations that will (often incidentally) influence commercial collections / original creditors.
  - Outgoing Biden-admin. enforcers issued calls for state-level reform to maintain aggressive oversight.
  - Some are finding work in state-level positions.
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# APPLICATION TO COMMERCIAL DEBT

# NEW YORK MAKES STRONG DISTINCTION BETWEEN CONSUMER AND COMMERCIAL DEBT . . .

Source of Law	Covers Commercial Debt?	Details
<b>GBL Art. 29-H (“Debt Collection Procedures Law”)</b>	<b>No</b>	Text limits “debt” and “consumer claim” to personal, family, or household purposes; it does regulate principal creditors, but only for consumer debt.
<b>DFS regulation 23 NYCRR Part 1 (Third-Party Debt Collection Rules)</b>	<b>No</b>	DFS’s own FAQ: “Does 23 NYCRR 1 apply to the collection of debts by original creditors? A. No,”
Consumer Credit Fairness Act (CPLR Reforms)	No	Litigation reforms (3-year SOL, affidavits, notices) apply to debts arising out of “consumer credit transactions” actions.
GBL §349 (state UDAAP)	Not Yet	Case law interpreting GBL § 349 claims requires consumer-oriented conduct; not a good fit for B2B. (“FAIR” Act will add unfair/abusive for AG actions.)
NYC Admin. Code (Debt Collection Agencies) & DCWP rules (6 RCNY ch. 5)	No	“Debt” and “agency” are defined with consumer scope. (NYC Admin. Code § 20-489(a))
23 NYCRR Part 600 (N.Y. Commercial Financing Regulations). Eff. Feb. 21, 2023.	Yes, but not consumer debt	<b>These do not regulate collections.</b> Instead, they govern non-bank providers’ pre-origination of (i) sales-based financing, (ii) closed-end, (iii) open-end, (iv) factoring, (v) asset-based lending, and (vi) lease financing. Applies to deals ≤ \$2.5M.
No statewide licensing of debt collection firms	N/A	N/A

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# NEW YORK

- . . . But recent legislation is blurring the line in discrete and bounded contexts
  - UDAAP
  - Mortgage Interests



# CONNECTICUT PROVIDES SOME DEBTOR PROTECTION / POLICING OF COMMERCIAL COLLECTIONS . . .

Source of Law	Covers Commercial Debt?	Details
<b>Consumer Collection Agency (CCA) licensing &amp; regulation — CGS §§ 36a-800–814</b>	<b>No</b>	CGS § 36a-800(2) defines a “consumer collection agency” as (A) a third-party collecting from a consumer or (B) collecting its own accounts if consumer debt is purchased after default.
<b>Creditors’ Collection Practices Act (CCPA) — CGS §§ 36a-645–648; Regs. Conn. State Agencies §§ 36a-647-2–7</b>	<b>No</b>	CGS § 36a-645(1) defines “debt” as limited to consumer claims: “an obligation...primarily for personal, family or household purposes.”
CUTPA (UDAAP) — CGS § 42-110b et seq.	Yes	CUTPA’s text does not limit application to consumers; can apply to commercial matters.
Coerced-Debt Law (Public Act 24-77 / SB 123, eff. Jan. 1, 2025, now CGS §§ 36a-650–651)	No	Debt limited to unsecured credit card debt incurred after Jan. 1, 2025 for “personal, family or household use.”
2025 amendments to CGS § 36a-868 (Public Act 25-115 / Connecticut SB-125); DOB regulations forthcoming.	Yes	New commercial financing contracts cannot waive the debtor’s right to notice, a judicial hearing, or prior court order before a prejudgment remedy such as attachment, garnishment, replevin, etc. Any such waiver is unenforceable.

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## ■ Commercial Financing - Amendments to CGS § 36a-868

- Applies to sales-based commercial financing  $\leq$  \$250k (think merchant cash advances/factoring-like products), not to all forms of B2B lending
- Only signed on July 1, 2025, but applies to every commercial financing within the law's scope entered into after July 1, 2024.
- New commercial financing contracts cannot waive the debtor's right to notice, a judicial hearing, or prior court order before a prejudgment remedy such as attachment, garnishment, replevin, etc.
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***CONN. PUBLIC ACT NO. 25-115***

**DEBT REFORMS ACROSS SEVERAL SECTORS**

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- **Any such waiver is unenforceable.**

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Source of Law	Covers Commercial Debt?	Details
<b>Collection-agency bonding (N.J.S.A. 45:18-1 to -6)</b>	<b>Yes</b>	Bond requirement applies to anyone collecting “any ... indebtedness ... for others” but attorneys and banks exempt.
<b>Retail Installment Sales Act (RISA) &amp; banking rules (N.J.A.C. 3:17)</b>	<b>No</b>	Governs retail (consumer) installment/charge including delinquency/collection charges and assignee duties.
Consumer Fraud Act (CFA), N.J.S.A. 56:8-1 et seq.	Sometimes	CFA targets acts “in connection with” consumer sales: may reach a creditor/assignee’s post-sale collection tied to a covered retail installment contract ( <i>Jefferson Loan</i> ), but not a third-party’s stand-alone collection activity unrelated to a sale ( <i>DepoLink</i> ).
Court Rules (Special Civil Part)	Yes, but . . .	Generally, standards and requirements apply to any plaintiff proceeding, though <b>many provisions are scoped for consumer suits</b> .
Business-financing Confession-of-Judgment ban (N.J.S.A. 2A:16-9.1)	Yes	Prohibits confessions of judgments in business-financing agreements, creating a direct limit on commercial enforcement.

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***N.J. S1397 / A865***  
**BILL RE:**  
**COMMERCIAL**  
**FINANCING**  
**DISCLOSURES**

- Requires TILA-style cost disclosures (e.g., APR/total cost) for commercial financing offers to NJ recipients. Regulates origination, not collection by mandating up-front transparency and standardized documents.



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***N..J. AR-187***  
**RESOLUTION**  
**URGING COURTS**  
**TO REFORM**  
**DEBT SUITS**

- 
- Introduced May 5, 2025
  - Calls on court administrators to study Fordham Law's National Center for Access to Justice Report titled "The Consumer Debt Litigation Index" and change court rules to increase transparency in *consumer* debt cases.



# A174 (CARROLL) / S1163 (KRUEGER) ABOLITION OF RENT MINIMUMS

- Creates RPL § 284:
  - “Rent minimums prohibited. No mortgagor on a loan secured primarily by an interest in real property shall be charged a fee, forced to default, or otherwise penalized by the mortgagee because the mortgagor did not set a high enough rent on all or part of such real property.
  - All terms of a mortgage which would cause a mortgagor to be penalized for not setting a high enough rent shall be void and unenforceable as against public policy.”
- Immediate, retroactive application
- Passed both Senate & Assembly on June 13, 2025.

# A174 (CARROLL) / S1163 (KRUEGER) ABOLITION OF RENT MINIMUMS

- **Who's bound:** Mortgagees (lenders/assignees) under real-property-secured loans governed by NY law or secured by NY real property. That includes the original mortgage creditor as well as successors.
  - The legislative justification speaks to helping small businesses / commercial rents, but the bill text isn't limited to commercial property—hence potential application to any mortgage that uses a rent floor/covenant formulation. Expect scope to be tested in court.
- Part of contract-leverage skepticism:
  - Would void some (bargained-for?) lender remedies by statute, like Conn. ban on PJR-waiver clauses in commercial-financing contracts. May shape downstream viability of commercial lending.



A174 (CARROLL) /  
S1163 (KRUEGER)  
**ABOLITION OF  
RENT MINIMUMS**

# Vetoed

“significant uncertainty in the real estate market that could increase borrowing costs and limit supply.”

“retroactivity also raises significant constitutional concerns.”



# APPLICATION TO ORIGINAL CREDITORS

# NEW JERSEY – DOES IT APPLY TO ORIGINAL CREDITOR?

- Yes.
  - N.J.S.A. 56:8-1 et seq. – **Consumer Fraud Act (CFA)** – Broad UDAP statute banning “unconscionable commercial practice,” deception, etc. New Jersey courts read the CFA broadly and allow it to reach post-sale conduct tied to a consumer transaction (including some repossession/collection behavior). Scope is fact-specific under *Jefferson & DepoLink*. Generally, not for standalone collection claims.
  - N.J.S.A. 17:16C-1 et seq.; implementing rules at N.J.A.C. 3:17 – **RISA** – Regulates retail installment contracts (goods and services), delinquency/collection charges, disclosures, contract terms, and assignee duties
  - N.J.S.A. 2A:16-9.1 (2020) – **Business-financing Confession-of-Judgment ban** – For business financing, providers may not extend financing with a confession-of-judgment clause; any such term is invalid and unenforceable. COJ now requires motion/notice.



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# NEW JERSEY – DOES IT APPLY TO ORIGINAL CREDITOR?

- No.
  - N.J.S.A. 45:18-1 to -6 – **Collection Agency Bonding** – Requires anyone “engaged in collecting or receiving payment for others” to file a \$5,000 surety bond with the State; imposes penalties for noncompliance



# CONNECTICUT

## DOES IT APPLY TO ORIGINAL CREDITOR?

- **Yes.**

- CGS §§ 36a-645–648 and Conn. Agencies Regs. §§ 36a-647-2–7 - **Creditors' Collection Practices Act (CCPA)** - Defines “debt” and prohibits abusive/harassing/fraudulent/deceptive or misleading collection conduct by a creditor; creates a PRA & remedies. Added in 2007.
- CGS § 42-110b et seq. - **Connecticut Unfair Trade Practices Act (CUTPA)** – Broad UDAAP statute that covers “unfair” + “deceptive” acts and enumerates many *per se* prohibited acts such as junk fees, undisclosed automatic renewals, etc.
- Public Act 24-77 (SB 123) / CGS §§ 36a-650–651 – **Coerced Debt** - Makes it unlawful to cause “coerced debt,” and requires creditors/collectors to pause collection while a coerced-debt claim is reviewed; went into effect Jan. 1, 2025.
- **Court Rules** - Set affidavit of debt and documentation expectations for default/small-claims collection judgments; Connecticut strengthened proof standards in 2010.



# CONNECTICUT

## DOES IT APPLY TO ORIGINAL CREDITOR?

- No.
  - CGS §§ 36a-800–814 - **Licenses consumer collection agencies** (incl. debt buyers); imposes application, surety bond, recordkeeping, and operating requirements.
  - CGS § 36a-813 – **Requires chain-of-title** and specified documentation/affidavit before judgment for *purchased debt*.



# NEW YORK

## DOES IT APPLY TO ORIGINAL CREDITOR?

- **Yes.**
  - GBL Art. 29-H – New York’s baseline substantive **debt-collection statute**. Bans specific practices (e.g., false authority, unauthorized fees, certain employer contacts) and imposes disclosure duties and penalties.
  - **CCFA / CPLR** – Litigation rules for consumer debt cases (e.g., 3-year SOL; affidavits; court-mailed notices; lower judgment interest)
  - GBL § 349 – **state UDAAP**





A9166  
(VALDEZ) /  
S.7233  
(GIANARIS)  
**PRA FOR  
“IMPROPER”  
COLLECTIONS**

- Adds a PRA to GBL Art. 29-H – New York’s baseline substantive debt-collection statute.
  - Would apply to original creditors
- Assembly Bill recently reintroduced
  - First Introduction was 2011
  - Held by Asm. Weinstein
- The bill has not made any moves since 2021



# NEW YORK

## DOES IT APPLY TO ORIGINAL CREDITOR?

- **No.**
  - 23 NYCRR Part 1 – a robust **state regulatory overlay for third-party collectors and debt buyers**: initial and time-barred-debt disclosures, itemization/ substantiation, SOL procedures, and (recently) language-access elements
  - NYC Admin. Code subch. 30 – **DCWP licensing for debt collection** agency in NYC; imposes required/prohibited practices on agencies and debt buyers



# NEW YORK

## DOES IT APPLY TO ORIGINAL CREDITOR?

- **Contested.** 6 RCNY §§ 5-76 & 5-77 – Actively updated through 2024–25; detailed conduct rules for “debt collectors,” including validation disclosures, language-access, and time-barred-debt content.



# NYC DEPT. CONSUMER & WORKER PROTECTION AMENDMENTS TO 6 RCNY §§ 5-76 & 5-77 (CONSUMER DEBT COLLECTION)

- **Contact-frequency & channel consent** - limits on attempts in a seven-day window for same consumer; consent rules for email/text/social; required identifications and “mini-Miranda”-style disclosures).
- **Validation & verification enhancements** - NYC - specific validation notice content/timing; dispute/verification process that would give up to 60 days to verify and requires ceasing collection until verification is sent.
- **Time-barred debt handling** - written time-barred notice and “no-overshadowing” during the validation period.
- **Language access & recordkeeping** - tracking consumers’ language preference and maintaining robust communication logs.

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# TIMELINE ('22-'24)

**Initial proposal & hearing** noticed regarding extensive changes to RCNY §§ 5-76/5-77 (consumer debt collection).

Nov. 2022

19 Dec. 2022

**First public hearing.**

**Re-notice.** DCWP re-noticed amendments to further address collection practices affecting NYC consumers.

29 Sep. 2023

12 Aug. 2024

**Final rule adopted;** initial effective date Dec. 1, 2024.

**First delay.** DCWP changed the eff. date to Apr. 1, 2025, & **separately noticed clarification:** “debt collector” includes original creditors collecting their own debts.

Sep. 2024  
(pre-Rosenthal Amds.)

# TIMELINE ('25)

**Second public hearing.**  
Focus is on original creditor clarification.

12 Dec. 2024

29 Jan. 2025

**Second delay.** Effective date pushed to Oct. 1, 2025.

**“Further amendments” noticed.** DCWP published a new proposal clarifying obligations of original creditors and adjusting several mechanics.

2 Apr. 2025

28 July 2025

**Third delay.** DCWP announced the Aug. 2024 final rules will not take effect on Oct. 1, 2025.

# AMENDMENT STATUS

- New effective date is “TBD”
- DCWP promises 90 days’ notice.
- Politics in the Mayor’s Office prevent high-level focus on the issue that could resolve the dispute.





# UDAAP PRINCIPLES

# CONNECTICUT

- Sec. 36a-648 of **Conn. Collection Practices Act** prohibits “A creditor . . . who uses any **abusive, harassing, fraudulent, deceptive or misleading** representation, device or practice with respect to any person to collect or attempt to collect a debt . . . shall be liable to such person.”
  - Added in 2007
- **CUPTA** (Conn. Gen. Stat. §42-110a et seq.).
  - Covers “Unfair” & “Deceptive,” but not “Abusive”
  - Enumerates man “per se” prohibited practices
  - SB3 of 2025 updates with new prohibited practices (eff. July 1, 2026)
    - Junk Fees, Connected Devices, Right to Repair Electronics, Automatic Renewals



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# NEW JERSEY

- **NJ has no state FDCPA analog.**
  - Other frameworks (collection-agency bonding & RISA) don't add UDAAP standards for debt collection.
- **Consumer Fraud Act (CFA), N.J.S.A. 56:8-2** prohibits deceptive, “unconscionable or abusive” commercial practices.
  - Whether collection conduct is covered turns on whether the act is “in connection with the sale ... or subsequent performance”: courts have allowed CFA claims tied to post-sale collection on a retail contract (*Jefferson*), but rejected CFA claims against stand-alone third-party collection activity (*DepoLink*).
  - Current bills focus on auto-renewal (S.3877 & S.4327) and litigation funding (S.4374), not debt collection practices.



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# NEW YORK

- **State & City debt collection rules move toward UDAAP frameworks**
  - **23 NYCRR Part 1** - the rule requires a notice stating collectors are prohibited from abusive, deceptive, and unfair practices (referencing FDCPA concepts) and it imposes specific disclosure, verification, and time-barred-debt requirements. Enforced by the Dept. of Financial Services.
  - **NYC rules; 6 RCNY § 5-77** – titled “Unconscionable and Deceptive Trade Practices” and then sets prescriptive collection rules; but still on hold pending effective date TBD and litigation.
- **Deceptive Acts & Practices Law (GBL § 349)** currently limited to misrepresentations and courts require conduct to be “consumer-oriented” or to have a public impact to qualify for relief. Enforced by NYOAG.
  - **However**, the Legislature passed the “**FAIR**” Act in June 2025.



# NEW YORK

## ■ State & City debt collection rules move toward UDAAP frameworks

- **23 NYCRR Part 1** - the rule requires a notice stating collectors are prohibited from abusive, deceptive, and unfair practices (referencing FDCPA concepts) and it imposes specific disclosure, verification, and time-barred-debt requirements. Enforced by the Dept. of Financial Services.
- **NYC rules; 6 RCNY § 5-77** – titled “Unconscionable and Deceptive Trade Practices” and then sets prescriptive collection rules; but still on hold pending effective date TBD and litigation.
- **Deceptive Acts & Practices Law (GBL § 349)** - currently limited to misrepresentations and courts require conduct to be “consumer-oriented” or to have a public impact to qualify for relief. Enforced by NYOAG.
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# NYS: A8427-A (LASHER) / S8416 (COMRIE) UDAAP

## Why It Matters:

- Inspired by receding federal enforcement from CFPB
- Amends GBL § 349 to prohibit “unfair” and “abusive” business practices.
  - Mirrors the federal definitions
- Allows the N.Y. Attorney General to enforce the new claims

# NYS: A8427-A (LASHER) / S8416 (COMRIE)

## UDAAP

- “An act or practice is **unfair** when it causes or is likely to cause substantial injury which is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or to competition . . . provided that the **substantial injury of a person or persons other than consumers shall also be deemed a "substantial injury" for purposes of this section.**”
- “An act or practice is **abusive** when:
  - (i) it materially interferes with the ability of a person to understand a term or condition of a product or service; or
  - (ii) it takes unreasonable advantage of:
    - (A) a lack of understanding on the part of a person of the material risks, costs, or conditions of a product or service;
    - (B) the inability of a person to protect such person's interests in selecting or using a product or service; or
    - (C) the reasonable reliance by a person on a person engaging in the act or practice to act in the relying person's interests.”



# NYS: A8427-A (LASHER) / S8416 (COMRIE)

## UDAAP

- **Current caselaw excludes commercial application by limiting GBL § 349 to “consumer-oriented” acts and practices.**
- **The bill overturns that caselaw**
  - Original Print [A5287 (Lasher) / S105 (Comrie)] : “Such actions may be brought regardless of whether or not the underlying violation is directed at individuals or businesses, is consumer-oriented, or involves the offering of goods, services, or property for personal, family or household purposes.”
  - New Bill: “An act or practice made unlawful by this section is actionable **by the attorney general** regardless of whether or not that act or practice is consumer-oriented.”



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## UDAAP

- **Adds Long Arm Component:**
  - “The attorney general may bring such an action or proceeding against **any person conducting any business, trade or commerce or furnishing a service in this state, whether or not the person is without the state.**”
  - “The attorney general may also bring such an action or proceeding against **any person within the state** conducting any business, trade, or commerce or furnishing a service, **whether or not the business, trade, commerce, or service is conducted or furnished without the state.**”



# NYS: A8427-A (LASHER) / S8416 (COMRIE)

## UDAAP

- Litigation risk may rise significantly for routine practices like settlement offers, form pleadings, and default notices.
- Legislative changes from original:
  - Unfair and abusive acts not subject to the PRA
  - Consumer-oriented doctrine still applies to PRA
  - No increase to \$1k statutory damages
  - No automatic, one-sided attorney fees
  - No third party standing
  - No liberalization of standing



# A7546 (LAVINE) / S6971 (KAVANAGH) **SUBORDINATE MORTGAGE DEBT**

## Why It Matters:

- RPAPL provision applies to residential *home loans*.
  - Requires additional pleadings including the date interest was purchased and amount paid.
  - Caps recoverable amount on loan purchased in default at purchase price plus 9% statutory interest.
  - Requires plaintiffs to disclose price paid, full loan history, and proof of title in initial pleadings.
- CPLR provisions apply to both residential and commercial subordinate mortgages purchased from the secondary market while in default.
  - Shorten the statute of limitations to 3 years from purchase.
  - No unilateral tolling or revival (FAPA)
  - Re-filing constrained after dismissal for “any form of neglect”
- Both are effectively retroactive.

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# A7546 (LAVINE) / S6971 (KAVANAGH) **SUBORDINATE MORTGAGE DEBT**

- Bill almost passed N.Y. Senate in 2025.
- Provisions illustrate two **emerging themes**:
  - (CPLR) *engineering an unprofitable collections process, and*
  - (RPAPL) *constructing noncompliance w/ (often retroactive) procedural rules as de facto legislative debt cancellation, particularly if voiding via statute would be a taking.*

# A174 (CARROLL) / S1163 (KRUEGER) ABOLITION OF RENT MINIMUMS

- Creates RPL § 284:
  - “Rent minimums prohibited. No mortgagor on a loan secured primarily by an interest in real property shall be charged a fee, forced to default, or otherwise penalized by the mortgagee because the mortgagor did not set a high enough rent on all or part of such real property.
  - All terms of a mortgage which would cause a mortgagor to be penalized for not setting a high enough rent shall be void and unenforceable as against public policy.”
- Immediate, retroactive application
- Passed both Senate & Assembly on June 13, 2025.

# A174 (CARROLL) / S1163 (KRUEGER) ABOLITION OF RENT MINIMUMS

- **Who's bound:** Mortgagees (lenders/assignees) under real-property-secured loans governed by NY law or secured by NY real property. That includes the original mortgage creditor as well as successors.
  - The legislative justification speaks to helping small businesses / commercial rents, but the bill text isn't limited to commercial property—hence potential application to any mortgage that uses a rent floor/covenant formulation. Expect scope to be tested in court.
- Part of contract-leverage skepticism:
  - Would void some (bargained-for?) lender remedies by statute, like Conn. ban on PJR-waiver clauses in commercial-financing contracts. May shape downstream viability of commercial lending.

A174 (CARROLL) /  
S1163 (KRUEGER)  
**ABOLITION OF  
RENT MINIMUMS**

# Vetoed

“significant uncertainty in the real estate market that could increase borrowing costs and limit supply.”

“retroactivity also raises significant constitutional concerns.”



**ID THEFT / COERCED DEBT**

# CONN. COERCED DEBT LAW

(PA 24-77; CGS §§ 36A-649–651)

- Who/what is covered:
  - Individuals who are the victims of domestic violence
  - Unsecured credit card debt insured for personal, family or household use.

# CONN. COERCED DEBT LAW

(PA 24-77; CGS §§ 36A-649–651)

- How a debtor triggers protections
  - Send a written, certified “notice” package identifying the account and including the debtor’s sworn statement plus one of: a police report, a restraining/protective order, or a letter from a qualified third-party professional



# CONN. COERCED DEBT LAW

(PA 24-77; CGS §§ 36A-649–651)

- Immediate effects (creditor/agency)
  - Within 10 days of receipt:
    - Suspend collection for 60 days (or until the review is finished, whichever is longer).
    - Begin a good-faith review. If negative info was previously furnished to a CRA, mark the account “disputed” during the review.
  - If litigation is pending, file the Judicial Branch Notice of Coerced Debt Review (JD-CV-179) with the court.





# CONN. COERCED DEBT LAW

(PA 24-77; CGS §§ 36A-649–651)

- Outcomes & timelines
  - If the creditor agrees it's coerced debt, permanently cease collection and tell any CRA to delete negative info within 10 business days of that determination.
  - If the creditor disagrees, they may recommence collection after sending a written determination.

# CONN. COERCED DEBT LAW

(PA 24-77; CGS §§ 36A-649–651)

- Statute of limitations is tolled while the creditor is barred from suing during the review.
- Debtor may use this process once per debt.
- Express civil liability for violation is aimed at the abuser
  - No new PRA or direct damages remedy against creditors/collectors (though CCPA remedies may apply).
  - Banking Commissioner may seek enforcement & civil penalties.



# A3038-B (ROSENTHAL) / S1353-B (CLEARE) **COERCED DEBT**

## Why It Matters:

- Allows individuals to assert that a debt was incurred through coercion and seek cancellation.
- Who's covered: "Debtor" = natural person; "Debt" = any obligation arising out of personal, family, or household purposes.
- Puts the burden on creditors to rebut allegations after collection has already been paused.
- Creates a PRA based on accuracy, not reasonableness of determination within a bounded factfinding exercise.

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# A3038-B (ROSENTHAL) / S1353-B (CLEARE) **COERCED DEBT**

- Adequate documentation (any one + sworn statement):
  - police report;
  - FTC identity-theft report;
  - court order; or
  - notarized statement from a qualified third party (e.g., attorney, social worker, clinician, clergy, government/nonprofit advocate).
- Process triggered upon a debtor's notice:
  - Creditor must collection while it reviews.
  - Within 10 business days: mark the debt as disputed and request that with any CRA it furnishes to suppress the debt.
  - Within 30 business days: complete investigation review; strict confidentiality rules and no contact with alleged abuser. Must decide and inform the debtor whether collections resume or cease permanently.
  - Within 30 days, reconsider decision upon debtor request.
- Resumption of collections triggers a right to a subsequent review and SOL not tolled during review.

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# A3038-B (ROSENTHAL) / S1353-B (CLEARE) **COERCED DEBT**

- Debtor may
  - raise coerced debt as a defense to collections suit;
  - seek a declaratory judgment deeming the debt coerced; or
  - use PRA to review of creditor's decision in court
- Debtor can recover \$1k statutory damages, actual damages, and reasonable attorneys' fees and costs.
- No requirement to use the statutory creditor review process before filing a claim/raising a defense.
- Also establishes a violation for the abuser, but creates no mechanism to transfer the obligation from victim to abuser





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**QUESTIONS**