

Subject Coerced Debt

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Date March 15, 2023

Overview

This bill defines “coerced debt” as debt incurred through the threat of force, intimidation, undue influence, harassment, fraud, deception, coercion, or economic abuse. The bill creates a legal process by which a debtor can have debt designated as coerced, stay collection action, and allow a creditor to assume collection activity against the person who caused the debtor to incur the coerced debt.

Summary

| Section | Description |
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| 1 | [332.71] Definitions. |
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Subd. 1. Scope. Definitions in this section apply to sections 332.71 to 332.75.

Subd. 2. Coerced debt. (a) Defines coerced debt as debt that has been incurred as a result of the use of a debtor’s personal information without their knowledge, through the use of threat of force, intimidation, undue influence, harassment, fraud, deception, coercion, or economic abuse.

(b) Clarifies that coerced debt does not include secured debt.

Subd. 3. Creditor. Defines creditor as a person with the right to collect a debt.

Subd. 4. Debtor. Defines debtor as a person who is a victim of domestic abuse, harassment, or sex or labor trafficking and owes a coerced debt.

Subd. 5. Documentation. Defines documentation as a writing that identifies the debt as coerced debt and describes the circumstances under which the coerced debt was incurred. Acceptable forms of documentation include police report, FTC identity theft report, dissolution proceeding under chapter 518 that declares a debt is coerced, or a sworn written certification.

Section Description

Subd. 6. Domestic abuse. Defines domestic abuse as defined in section 518B.01, subdivision 2.

Subd. 7. Economic abuse. Defines economic abuse as behavior in a domestic relationship that controls, restrains, restricts, impairs, or interferes with a debtor's ability to acquire, use, or maintain economic resources. This includes withholding or restricting access to money and assets, interfering with a debtor's ability to work and earn wages, or due to exerting undue influence over a person's financial and economic behavior or decisions.

Subd. 8. Harassment. Defines harassment as having the meaning given in section 609.748.

Subd. 9. Labor trafficking. Defines labor trafficking as having the meaning given in section 609.281, subdivision 5.

Subd. 10. Qualified third-party professional. Defines qualified third-party professional as a domestic abuse advocate, sexual assault counselor, licensed health care provider, mental health care provider, social worker, marriage or family therapist, or a nonprofit organization in Minnesota that provides direct assistance to victims of domestic abuse, sexual assault, or sex or labor trafficking.

Subd. 11. Sex trafficking. Defines sex trafficking as having the meaning given in section 609.321, subdivision 7a.

Subd. 12. Sworn written certification. Defines sworn written certification and provides a form for a qualified third-party professional to complete for a debtor with coerced debt.

2 **[332.71] Coerced debt prohibited.**

Prohibits a person from causing another to incur coerced debt.

3 **[332.73] Notice to creditor of coerced debt.**

Subd. 1. Notification. (a) Requires a debtor to notify a creditor by certified mail before taking action under section 4 that the debt is coerced debt and request the creditor cease collection activity. Requires the debtor to provide documentation. Requires the creditor to reply to the debtor within 30 days of receiving the notification regarding whether the debtor will cease collection activity.

(b) Requires a creditor that ceases and then decides to resume collection activity to notify the debtor at least 10 days before resuming collections.

Section Description

(c) Prohibits a debtor from proceeding with an action under section 4 until the 30-day period described in paragraph (a) has passed.

Subd. 2. Sale or assignment of coerced debt. Allows a creditor to sell or assign a debt to another party if they notify the buyer that the debt is coerced.

Subd. 3. No inference upon cessation of collection activity. Clarifies that if a creditor ceases collections under this subdivision or section 4 there is not an inference that the debt is valid or invalid or the debtor is liable or not liable. Clarifies that the exercise of rights under this section is not a waiver of any other debtor or creditor rights.

4 [332.74] Debtor remedies.

Subd. 1. Right to petition for declaration and injunction. Allows a debtor alleging a violation of section 2 to request equitable relief and requires the petition to meet certain requirements.

Subd. 2. Procedural safeguards. Requires the court to take the steps necessary to prevent abuse. Clarifies that appropriate steps may include marking a file as confidential, redacting personally identifiable information, or directing that a hearing be held remotely.

Subd. 3. Relief. (a) Provides that if a debtor shows they have been aggrieved by a violation of section 2, the debtor is entitled to a declaratory judgment, an injunction, or the dismissal of an action brought by a creditor to collect the debt.

(b) Requires the court to issue a judgment in favor of the creditor against the person who caused the coerced debt to be incurred if the court orders the relief described in paragraph (a).

(c) Clarifies that this subdivision applies regardless of the judicial district where the creditor's action or debtor's petition was filed.

Subd. 4. Affirmative defense. States that in an action against a debtor to satisfy a debt it is an affirmative defense that the debt was coerced.

Subd. 5. Burden. States that for defenses under subdivisions 1 or 3, the debtor must show by a preponderance of the evidence that the debt was coerced debt. Creates a presumption that the debt was coerced if the person who caused the debt to be incurred has been convicted, pled guilty, or entered an Alford plea under certain criminal statutes.

Subd. 6. Statute of limitations tolled. (a) Provides that the statute of limitations under section 541.05 is tolled while a proceeding under this section is pending.

| Section | Description |
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| | (b) Prohibits a creditor from filing a collection action regarding a debt subject to this section while the proceeding is pending. |
| | (c) Requires a court to stay collection activity against a debtor if the debtor commenced a proceeding under this section while a collection action is pending. |
| 5 | [332.75] Creditor remedies. Clarifies that nothing in sections 1 to 4 diminishes the rights of a creditor to seek payment recovery for a coerced debt from the person who caused the debtor to incur the debt. |
| 6 | Effective date. Sections 1 to 5 are effective January 1, 2024, and applies to debts incurred on or after that debt. |



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