

7181

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 25, 2009

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Introduced by M. of A. CAMARA -- read once and referred to the Committee  
on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring credit reporting agencies to furnish proof of identity theft to creditors upon debtor's request

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 380-u of the general business law, as relettered by  
2     chapter 63 of the laws of 2006, is relettered 380-v and a new section  
3     380-u is added to read as follows:  
4     S 380-U. IDENTITY THEFT CREDIT REPORT. 1. IF A PERSON SUBMITS DOCUMENTATION  
5     INDICATING THEY HAVE BEEN A VICTIM OF IDENTITY THEFT, THE CREDIT  
6     REPORTING AGENCY SHALL FURNISH SUCH INFORMATION TO ALL CREDITORS UPON  
7     THE REQUEST OF SUCH DEBTOR. SUCH AGENCY SHALL ALSO KEEP SUCH INFORMATION  
8     ON FILE FOR SEVEN YEARS.  
9     2. THE FOLLOWING SHALL SUFFICE AS PROOF OF IDENTITY THEFT:  
10    (A) A COPY OF A VALID POLICE REPORT FILED BY THE DEBTOR ALLEGING THAT  
11    THE DEBTOR IS THE VICTIM OF AN IDENTITY THEFT CRIME, INCLUDING, BUT NOT  
12    LIMITED TO, A VIOLATION OF SECTION 190.78, 190.79, 190.80, 190.81,  
13    190.82 OR 190.83 OF THE PENAL LAW, FOR THE SPECIFIC DEBT BEING COLLECTED  
14    BY THE CREDITOR; AND  
15    (B) THE DEBTOR'S WRITTEN STATEMENT THAT THE DEBTOR CLAIMS TO BE THE  
16    VICTIM OF IDENTITY THEFT WITH RESPECT TO THE SPECIFIC DEBT BEING  
17    COLLECTED BY THE CREDITOR.  
18    3. THE WRITTEN STATEMENT DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION TWO  
19    OF THIS SECTION SHALL CONSIST OF EITHER OF THE FOLLOWING:  
20    (A) A SIGNED FEDERAL TRADE COMMISSION ID THEFT VICTIM'S AFFIDAVIT; OR  
21    (B) A WRITTEN STATEMENT THAT CERTIFIES THAT THE REPRESENTATIONS ARE  
22    TRUE, CORRECT, AND CONTAIN NO MATERIAL OMISSIONS OF FACT TO THE BEST  
23    KNOWLEDGE AND BELIEF OF THE PERSON SUBMITTING THE CERTIFICATION. A  
24    PERSON SUBMITTING SUCH CERTIFICATION WHO DECLARES AS TRUE ANY MATERIAL

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

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1 MATTER PURSUANT TO THIS SUBDIVISION THAT HE OR SHE KNOWS TO BE FALSE IS  
2 GUILTY OF A MISDEMEANOR. SUCH STATEMENT SHALL CONTAIN OR BE ACCOMPANIED  
3 BY, THE FOLLOWING, TO THE EXTENT THAT SUCH ITEMS ARE RELEVANT TO THE  
4 DEBTOR'S ALLEGATION OF IDENTITY THEFT WITH RESPECT TO THE DEBT IN QUES-  
5 TION:

6 (I) A STATEMENT THAT THE DEBTOR IS A VICTIM OF IDENTITY THEFT;

7 (II) A COPY OF THE DEBTOR'S DRIVER'S LICENSE OR IDENTIFICATION CARD,  
8 AS ISSUED BY THE STATE;

9 (III) ANY OTHER IDENTIFICATION DOCUMENT THAT SUPPORTS THE STATEMENT OF  
10 IDENTITY THEFT;

11 (IV) SPECIFIC FACTS SUPPORTING THE CLAIM OF IDENTITY THEFT, IF AVAIL-  
12 ABLE;

13 (V) ANY EXPLANATION SHOWING THAT THE DEBTOR DID NOT INCUR THE DEBT;

14 (VI) ANY AVAILABLE CORRESPONDENCE DISPUTING THE DEBT AFTER TRANSACTION  
15 INFORMATION HAS BEEN PROVIDED TO THE DEBTOR;

16 (VII) DOCUMENTATION OF THE RESIDENCE OF THE DEBTOR AT THE TIME OF THE  
17 ALLEGED DEBT. THIS MAY INCLUDE COPIES OF BILLS AND STATEMENTS, SUCH AS  
18 UTILITY BILLS, TAX STATEMENTS, OR OTHER STATEMENTS FROM BUSINESSES SENT  
19 TO THE DEBTOR, SHOWING THAT THE DEBTOR LIVED AT ANOTHER RESIDENCE AT  
20 THE TIME THE DEBT WAS INCURRED;

21 (VIII) A TELEPHONE NUMBER FOR CONTACTING THE DEBTOR CONCERNING ANY  
22 ADDITIONAL INFORMATION OR QUESTIONS, OR DIRECTION THAT FURTHER COMMUNI-  
23 CATIONS TO THE DEBTOR BE IN WRITING ONLY, WITH THE MAILING ADDRESS SPEC-  
24 IFIED IN THE STATEMENT;

25 (IX) TO THE EXTENT THE DEBTOR HAS INFORMATION CONCERNING WHO MAY HAVE  
26 INCURRED THE DEBT, THE IDENTIFICATION OF ANY PERSON WHO THE DEBTOR  
27 BELIEVES IS RESPONSIBLE; OR

28 (X) AN EXPRESS STATEMENT THAT THE DEBTOR DID NOT AUTHORIZE THE USE OF  
29 THE DEBTOR'S NAME OR PERSONAL INFORMATION FOR INCURRING THE DEBT.

30 4. THE CERTIFICATION REQUIRED PURSUANT TO SUBDIVISION THREE OF THIS  
31 SECTION SHALL BE SUFFICIENT IF IT IS IN SUBSTANTIALLY THE FOLLOWING  
32 FORM:

33 "I CERTIFY THE REPRESENTATIONS MADE ARE TRUE, CORRECT, AND CONTAIN NO  
34 MATERIAL OMISSIONS OF FACT " DATE AND PLACE  
35 (SIGNATURE)

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