S T A T E O F N E W Y O R K

4026

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. CAMARA, BARRON, COLTON, CASTRO, ORTIZ -- Multi-Sponsored by -- M. of A. GALEF, HOOPER, JEFFRIES, P. LOPEZ, MAISEL, SCHIMEL, TITONE, TOWNS, WEISENBERG -- 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:

Section 1. Section 380-u of the general business law, as relettered by chapter 63 of the laws of 2006, is relettered 380-v and a new section 380-u is added to read as follows:

S 380-U. IDENTITY THEFT CREDIT REPORT. 1. IF A PERSON SUBMITS DOCUMENTATION INDICATING THEY HAVE BEEN A VICTIM OF IDENTITY THEFT, THE CREDIT REPORTING AGENCY SHALL FURNISH SUCH INFORMATION TO ALL CREDITORS UPON THE REQUEST OF SUCH DEBTOR. SUCH AGENCY SHALL ALSO KEEP SUCH INFORMATION ON FILE FOR SEVEN YEARS.

2. THE FOLLOWING SHALL SUFFICE AS PROOF OF IDENTITY THEFT:

(A) A COPY OF A VALID POLICE REPORT FILED BY THE DEBTOR ALLEGING THAT THE DEBTOR IS THE VICTIM OF AN IDENTITY THEFT CRIME, INCLUDING, BUT NOT LIMITED TO, A VIOLATION OF SECTION 190.78, 190.79, 190.80, 190.81, 190.82 OR 190.83 OF THE PENAL LAW, FOR THE SPECIFIC DEBT BEING COLLECTED BY THE CREDITOR; AND

(B) THE DEBTOR'S WRITTEN STATEMENT THAT THE DEBTOR CLAIMS TO BE THE VICTIM OF IDENTITY THEFT WITH RESPECT TO THE SPECIFIC DEBT BEING COLLECTED BY THE CREDITOR.

3. THE WRITTEN STATEMENT DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION SHALL CONSIST OF EITHER OF THE FOLLOWING:

(A) A SIGNED FEDERAL TRADE COMMISSION ID THEFT VICTIM'S AFFIDAVIT; OR

(B) A WRITTEN STATEMENT THAT CERTIFIES THAT THE REPRESENTATIONS ARE TRUE, CORRECT, AND CONTAIN NO MATERIAL OMISSIONS OF FACT TO THE BEST

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

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KNOWLEDGE AND BELIEF OF THE PERSON SUBMITTING THE CERTIFICATION. A PERSON SUBMITTING SUCH CERTIFICATION WHO DECLARES AS TRUE ANY MATERIAL MATTER PURSUANT TO THIS SUBDIVISION THAT HE OR SHE KNOWS TO BE FALSE IS GUILTY OF A MISDEMEANOR. SUCH STATEMENT SHALL CONTAIN OR BE ACCOMPANIED BY, THE FOLLOWING, TO THE EXTENT THAT SUCH ITEMS ARE RELEVANT TO THE DEBTOR'S ALLEGATION OF IDENTITY THEFT WITH RESPECT TO THE DEBT IN QUESTION:

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

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

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

(IV) SPECIFIC FACTS SUPPORTING THE CLAIM OF IDENTITY THEFT, IF AVAILABLE;

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

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

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

(VIII) A TELEPHONE NUMBER FOR CONTACTING THE DEBTOR CONCERNING ANY ADDITIONAL INFORMATION OR QUESTIONS, OR DIRECTION THAT FURTHER COMMUNICATIONS TO THE DEBTOR BE IN WRITING ONLY, WITH THE MAILING ADDRESS SPECIFIED IN THE STATEMENT;

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

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

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

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

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