STATE OF NEW YORK

7487

2021-2022 Regular Sessions

IN ASSEMBLY

May 11, 2021

Introduced by M. of A. FALL, ROZIC -- (at request of the Office of Victim Services) -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to debt collection procedures related to identity theft

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

Section 1. Subdivisions 1 and 2 of section 604-a of the general business law, as added by chapter 456 of the laws of 2008, are amended to read as follows:

1. Upon receipt from a debtor of the following, a principal creditor shall cease collection activities until completion of the review provided in subdivision five of this section:

(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 principal creditor; [~~and~~] or

(b) a copy of a completed and signed federal trade commission identity theft victim's report filed by the debtor alleging that the debtor is the victim of identity theft; and

(c) 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 principal creditor.

2. The written statement described in paragraph [~~(b)~~] (c) of subdivision one 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 knowledge and belief of the person submitting the certification. A 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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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 whom 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**;**

(xi) an express statement that the debtor was coerced to authorize the use of the debtor's name or personal information for incurring the debt; or

(xii) criminal or family court documents that support the statement of identity theft.

§ 2. This act shall take effect one hundred eighty days after it shall have become a law.