

Illinois Passes Bill Prohibiting Collection of Coerced Debt

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On May 22, [Illinois House Bill 3352](#) passed the Illinois legislature and now awaits Governor JB Pritzker's signature. This bill amends the Illinois Collection Agency Act to provide an individual a way to avoid liability for a coerced debt. HB 3352 defines coerced debt as a debt incurred due to fraud, duress, intimidation, threat, force, coercion, undue influence, or non-consensual use of the debtor's personal identifying information as a result of domestic abuse, sexual assault, exploitation, or human trafficking.

To prevent collection, the debtor must provide a "statement of coerced debt," including sufficient information to identify the debt; affirming the debtor did not willingly authorize the use of their name, account, or information; explaining how the debt was incurred; providing preferred contact information for the debtor or qualified third party; supported by a police report, court order, verification from a qualified third party, or other document demonstrating coerced debt; and be verified by a signed attestation. The statement and documents must be sent by a delivery method confirming the date of delivery. Oral notice is not sufficient.

If the notice is incomplete, the debt collection agency must notify the debtor using the preferred contact information within 21 days, and the debtor has 21 days to respond with the additional information. Collection can resume if additional documents are not received within 30 days after the notice of incomplete statement was provided.

Once the complete statement is submitted, the collection agency must cease any pre-judgment collection attempts and notify consumer reporting agencies of the dispute within 10 days. Within 90 days of receiving the statement, the collection agency must determine if the debt qualifies as coerced. If the debt is found to not be coerced, the collection agency must provide the debtor with a written explanation and evidence, then may resume collection. If the debt is coerced, then the collection agency must cease collection, notify the debtor, and delete any information from consumer reporting agencies. If requested, the debtor must provide the identity of and contact information of the perpetrator, if known.

A debtor can also assert coerced debt as an affirmative defense, using the same statement. A court/arbitrator may find the perpetrator civilly liable for the debt and any damages incurred by the debtor. The court or arbitrator must take appropriate steps to protect the debtor from the perpetrator.

Any collection agency failing to comply with the law is liable to the debtor for actual damages or up to \$2,500.00, plus costs and reasonable attorneys' fees. If signed, the Department of Financial and Professional Regulation shall have 180 days to publish model forms for debtors and qualified third parties.

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- [Fair Debt Collection Practices Act \(FDCPA\)](#)