AN ACT concerning regulation.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Collection Agency Act is amended by changing Section 2 and by adding Section 9.6 as follows:

(205 ILCS 740/2) (was 225 ILCS 425/2)

(Section scheduled to be repealed on January 1, 2026)

Sec. 2. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit.

"Board" means the Collection Agency Licensing and Disciplinary Board.

"Charge-off balance" means an account principal and other legally collectible costs, expenses, and interest accrued prior to the charge-off date, less any payments or settlement.

"Charge-off date" means the date on which a receivable is treated as a loss or expense.

<u>"Coerced debt" means any debt as defined by this Act or a portion of the debt, except for debt secured by real property, that was incurred by the debtor because of fraud, duress, intimidation, threat, force, coercion, undue influence, or the</u>

non-consensual use of the debtor's personal identifying information between family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986, as a result of abuse or exploitation as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or due to human trafficking as defined in subsections (b), (c), and (d) of Section 10-9 of the Criminal Code of 2012.

"Collection agency" means any person who, in the ordinary course of business, regularly, on behalf of himself or herself or others, engages in the collection of a debt.

"Consumer debt" or "consumer credit" means money or property, or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction.

"Credit transaction" means a transaction between a natural person and another person in which property, service, or money is acquired on credit by that natural person from such other person primarily for personal, family, or household purposes.

"Creditor" means a person who extends consumer credit to a debtor.

"Current balance" means the charge-off balance plus any legally collectible costs, expenses, and interest, less any credits or payments.

"Debt" means money, property, or their equivalent which is due or owing or alleged to be due or owing from a person to another person.

"Debt buyer" means a person or entity that is engaged in the business of purchasing delinquent or charged-off consumer loans or consumer credit accounts or other delinquent consumer debt for collection purposes, whether it collects the debt itself or hires a third-party for collection or an attorney-at-law for litigation in order to collect such debt.

"Debtor" means a person from whom a collection agency seeks to collect a consumer or commercial debt that is due and owing or alleged to be due and owing from such person.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Perpetrator of coerced debt" or "perpetrator" means an individual who caused coerced debt to be incurred by another.

"Person" means a natural person, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other similar entity.

"Licensed collection agency" means a person who is licensed under this Act to engage in the practice of debt collection in Illinois.

"Multi-state licensing system" means a web-based platform that allows licensure applicants to submit their applications and renewals to the Department online.

"Secretary" means the Secretary of Financial and Professional Regulation or his or her designee.

(Source: P.A. 102-975, eff. 1-1-23.)

(205 ILCS 740/9.6 new)

Sec. 9.6. Coerced debt.

(a) A debtor is not liable for any coerced debt, as defined in this Act, and may assert that the debtor has incurred a coerced debt by providing to a collection agency a written statement of coerced debt. The statement of coerced debt shall:

(1) contain enough information about the debt or portion of the debt to allow a collection agency to identify any account associated with the debt;

(2) inform the collection agency that the debtor did not willingly authorize the use of the debtor's name, account, or personal information for incurring the debt or portion of the debt or to claim that a debt or portion of the debt is a coerced debt;

(3) provide facts describing how the debt was incurred;

(4) include the debtor's preferred contact methods and information such as a phone number, email address, physical address, or safe address for either the debtor or a qualified third party whom the debtor designates to receive information about the coerced debt;

(5) be supported by at least one of the following:

(A) a police report that identifies the coerced debt, or a portion of the debt, and describes the circumstances under which the coerced debt was incurred;

(B) an order from a court setting forth findings of coerced debt;

(C) written verification on letterhead or on a form published by the Department, verified by certification under Section 1-109 of the Code of Civil Procedure of 1963, from a qualified third party to whom the debtor reported the coerced debt that identifies the name, organization, address, and telephone number of the qualified third party, identifies the coerced debt or a portion of the debt, and attests that the debtor sought the qualified third party's assistance related to the coerced debt, abuse or exploitation under the Illinois Domestic Violence Act of 1986, or because they are a victim of human trafficking under Section 10-9 of the Criminal Code of 2012. Provision of a written verification under this Section does not waive any privilege or confidentiality between the third party and the debtor under federal, State, or local law; or

(D) any other document that individually, or in combination with other documents, demonstrates that a person was subject to coerced debt, including, but not limited to, text messages, email messages, phone records, voicemail messages, social media posts, letters, credit card applications, or orders of protection under Article 2 of the Illinois Domestic Violence Act of 1986 or protective orders under Section 112A of the Code of Criminal Procedure of 1963.

(6) be verified by signing the following attestation: "By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of human trafficking, domestic violence, dating violence, sexual assault, or stalking.".

As used in this Section, "qualified third party" means any law enforcement officer; attorney; physician, physician assistant, psychiatrist, psychologist, social worker, nurse, therapist, clinical professional counselor, or other medical professional; person who advises or provides services to persons regarding domestic violence, family violence, sexual assault, human trafficking, or abuse of children, the elderly, or dependent adults; or member of the clergy of a church, religious society, or denomination.

(b) A debtor shall submit a statement of coerced debt and accompanying materials either electronically or by certified mail, overnight delivery, completion of an online form, or by any other delivery method that confirms the date on which the documentation was delivered.

(1) A statement of coerced debt and accompanying materials submitted by first class mail, certified mail, or overnight delivery must be sent to the address published by the collection agency on its materials as the address at which the collection agency receives correspondence.

(2) A statement of coerced debt and accompanying materials submitted electronically must be sent to the email address provided by the collection agency on its collection letters, emails, or website and a hard copy of the emailed materials must also be sent to the collection agency by first class mail.

(3) A statement of coerced debt and accompanying materials may be submitted by completing an online form on the website provided by the collection agency on its collection letters or emails. The collection agency is not required to offer an online form on its website for the submission of a statement of coerced debt.

(c) If a debtor notifies a collection agency orally that the debt it is pursuing is coerced debt or is partially coerced debt, the collection agency shall notify the debtor orally or in writing, within 14 days after receiving oral notice, that the debtor's claim must be in writing and refer the debtor to any model statement that is posted by the Department on its website. A collection agency receiving an oral notice of coerced debt must notify any consumer reporting agency to which the collection agency furnished adverse information about the debtor that the debtor disputes the adverse information.

(d) If the statement of coerced debt is incomplete in any respect, the collection agency shall notify the debtor using the debtor's preferred contact method within 21 days after receipt that the statement is incomplete and the type of additional information needed to complete the statement of coerced debt. If the collection agency provides this notice orally, the collection agency shall also provide notice to the debtor in writing via email or first-class mail if the debtor identifies an email address or mailing address as a preferred contact method on the statement of coerced debt. A debtor shall have 21 days after receipt that the statement is incomplete to respond with the additional information required. The collection agency may resume collection activities if a complete statement of coerced debt has not been provided by the debtor to the collection agency on or before 30 days after notice of an incomplete statement of coerced debt was provided to the debtor.

(e) Upon receiving the debtor's complete statement of coerced debt and supporting information described in subsection (a), the collection agency shall review and consider all the information received from the debtor as well as any other information available in the collection agency's file or from the creditor related to the alleged coerced debt within 90 days after receipt.

(1) Within 10 days after receipt of the complete statement of coerced debt and supporting information, the collection agency shall (i) cease any pre-judgment attempts to collect the coerced debt from the debtor, including refraining from filing any lawsuit or arbitration to collect the coerced debt; and (ii) notify any consumer reporting agency to which the collection agency or creditor furnished adverse information about the debtor that the debtor disputes the adverse information.

(2) If, after review, the collection agency makes a good faith determination that the debt or any portion of the debt does not qualify as coerced debt, the collection agency shall provide the debtor with a written statement setting forth the determination, along with any evidence relied upon in forming this determination. A collection agency may only resume collection activities after providing debtor with a copy of this written statement and supporting evidence at the debtor's preferred email or mailing address from the statement of coerced debt or, if not provided as part of the statement, at their last known mailing address.

(3) If, after its review of the statement of coerced

debt and accompanying materials, the collection agency makes a good faith determination that the debt qualifies as coerced debt, it shall: (i) refrain from any further collection activities, including the filing of any lawsuit or arbitration, to collect the coerced debt from the debtor who submitted the statement of coerced debt; (ii) notify the debtor through their preferred contact method that it is ceasing all attempts to collect the debt from the debtor based on the debtor's claim of coerced debt; and (iii) contact any consumer reporting agency to which it furnished information about the coerced debt and request they delete such information.

(4) Upon the collection agency's request, the debtor shall provide the identity of the alleged perpetrator and the individual's contact information to the collection agency, if known.

(5) A collection agency shall not provide the contact information of debtor or a copy of the statement of coerced debt or supporting information to an alleged perpetrator of coerced debt or another person but may summarize the allegations about how the coerced debt was incurred in order to collect the debt from the perpetrator.

(f) In any lawsuit or arbitration to collect a debt, it shall be an affirmative defense that the debt is or is partially coerced debt. A debtor establishes a prima facie affirmative defense to any action by a collection agency to collect a debt by submitting a complete statement of coerced debt as set forth in subsection (a) to the collection agency and the court or arbitrator. A collection agency has the burden to disprove the debtor's defense by a preponderance of the evidence.

(g) A person found by a court or arbitrator to be a perpetrator of coerced debt shall be civilly liable to (1) the collection agency for the full amount of the debt, less any portion that has been satisfied by the debtor or otherwise, and (2) the debtor for any actual damages incurred for payments, garnishments, or any other costs related to the coerced debt.

(h) A qualified third party who fraudulently certifies that the debtor sought assistance from the qualified third party related to the coerced debt, abuse, exploitation, or human trafficking shall be liable to the collection agency for actual damages, court costs, and reasonable attorney's fees.

(i) Any statute of limitation that may apply to a debt that is alleged to be coerced debt shall be tolled for the duration of any time period during which the collection agency is temporarily prevented from commencing legal action related to the debt or any portion of the debt.

(j) During any court action or arbitration under subsections (f) and (g), the presiding official shall take appropriate steps necessary to protect the debtor or any immediate family member or household member of the debtor from an alleged perpetrator of coerced debt, including, but not limited to, sealing court records, redacting personally identifiable information about the debtor and any immediate family member or household member of the debtor, and directing that any deposition or evidentiary hearing be conducted remotely.

(k) A debtor who receives a good faith determination under paragraph (2) of subsection (e) that the debt or portion of the debt does not constitute coerced debt may not submit a second or subsequent statement of coerced debt to the collection agency for the same debt or portion of the debt prior to any lawsuit or arbitration to collect that debt and the collection agency is not required to respond to the debtor regarding such second or subsequent statement of coerced debt.

(l) No agreement between a debtor and any other person may contain any provision that constitutes a waiver of any right conferred or cause of action created by this Section, and any such waiver is void.

(m) Any collection agency who fails to comply with any provision of this Section is liable to the debtor for the greater of actual damages or damages of up to $2,500 as the court may allow for each debt, court costs, and reasonable attorney's fees.

(n) Within 180 days after the effective date of this amendatory Act of the 104th General Assembly, the Department shall design and publish a model statement of coerced debt and a model third-party written verification form in English and any other language it determines, within its discretion, is the first language of a significant number of consumers in the State. The model statement of coerced debt shall include the verification language required under paragraph (6) of subsection (a). The model third-party verification form shall require verification under Section 1-109 of the Code of Civil Procedure. The design and publication of the model statement of coerced debt and third-party written verification form is a prescription of a standardized form and shall not constitute a rule subject to the Illinois Administrative Procedure Act.

(o) Nothing in this Section shall reduce or eliminate any other rights or defenses available at law.

(p) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes.