

S.F. No. 2712 (as amended by the A-1 amendment) – Remedies provision to debtors with coerced debt

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Overview

S.F. 2712 prohibits a person from causing another person to incur coerced debt, and provides for debtor relief from creditors in the event the debtor has incurred coerced debt. Such relief includes (1) a declaratory judgment that the debt is coerced debt; (2) an injunction prohibiting a creditor from holding the debtor liable for the debt or enforcing a judgment related to the coerced debt; and (3) an order dismissing any cause of action brought by a creditor to enforce or collect the coerced debt from the debtor. **S.F. 2712** further specifies requirements for notice which a debtor must provide to a creditor if the debtor alleges it has incurred coerced debt, and petition requirements for a debtor seeking equitable relief. The bill requires a court to follow certain procedural safeguards to prevent abuse of the debtor, debtor’s children, parents, other relatives, or a family pet.

Summary

Section 1. [Minn. Stat. § 332.71] Definitions. Defines key terms for the purposes of section 332.71 to 332.75, including “coerced debt,” “creditor,” “debtor,” “documentation,” “domestic abuse,” “economic abuse,” “harassment,” “labor trafficking,” “qualified third-party professional,” “sex trafficking,” and “sworn written certification.”

Section 2. [Minn. Stat. § 332.72] Coerced Debt Prohibited. Prohibits a person from causing another person to incur coerced debt.

Section 3. [Minn. Stat. § 332.73] Notice to Creditor of Coerced Debt.

Subdivision 1. Notification. Requires a debtor, at least 30-days prior to taking action under section 332.74 (relating to a debtor’s right to petition for declarative and injunctive relief), to notify a creditor that the debt on which the creditor demands payment is coerced debt and to request that the creditor cease all collection activity related thereto. Specifies timing and documentation requirements for the debtor’s notification and request under this subdivision.

Subdivision 2. Sale or assignment of coerced debt. Permits a creditor to sell or assign a debt for which the creditor has been notified is coerced debt to another party if the creditor provides notification to the buyer or assignee that the debtor has asserted the debt is coerced debt.

Subdivision 3. No inference upon cessation of collection activity. Provides that, if a creditor ceases collection activity related to coerced debt, no inference is created regarding the validity or invalidity of a debt for which a debtor is liable or not liable. Provides further that the exercise or nonexercise of rights does not constitute a waiver of any right or defense of a debtor or creditor.

Section 4. [Minn. Stat. § 332.74] Debtor Remedies.

Subdivision 1. Right to petition for declaration and injunction. Permits a debtor alleging a violation of the prohibition against causing coerced debt to petition for equitable relief in district court, and specifies petition requirements.

Subdivision 2. Procedural safeguards. Requires a court to take necessary steps to prevent abuse of the debtor, debtor's children, parents, other relatives, or a family pet, which steps include sealing the file, marking the file as confidential, redacting personally identifiable information about the debtor, and directing that any deposition or evidentiary hearing be conducted remotely.

Subdivision 3. Relief. Sets forth the following three remedies for a debtor that can show by a preponderance of the evidence that coerced debt has been incurred:

- (1) A declaratory judgment that the debt is coerced debt;
- (2) An injunction prohibiting a creditor from (i) holding the debtor liable for the debt, or (ii) enforcing a judgment related to the coerced debt; and
- (3) An order dismissing any cause of action brought by a creditor to enforce or collect the coerced debt from the debtor or, if only a portion of the debt is coerced debt, an order directing that the judgment be amended to reflect only the portion of the debt that is not coerced debt.

Subdivision 4. Affirmative defense. Clarifies that it is an affirmative defense to an action against a debtor to satisfy a debt that the debtor incurred coerced debt.

Subdivision 5. Burden. Specifies that the burden of proof is on the debtor in an action under subdivision 1 or any affirmative defense under subdivision 4. Further provides that there is a presumption that the debtor has incurred coerced debt if the person alleged to have caused the debtor to incur the coerced debt has been criminally convicted, entered a guilty plea, or entered an Alford plea under section 609.27 (coercion), 609.282 (labor trafficking), 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking), or 609.527 (identity theft).

Subdivision 6. Statute of limitations tolled. Provides that the statute of limitations is tolled during a proceeding instituted under this new section of law, and prohibits a creditor from filing a collection action regarding a debt that is the subject of a proceeding under this section if the proceeding is pending.

Section 5. [Minn. Stat. § 332.75] Creditor Remedies. Maintains the rights of a creditor to seek payment recovery for a coerced debt from the person who caused the debtor to incur the coerced debt, notwithstanding anything to the contrary in sections 332.71 to 332.74.

Section 6. Effective Date. Provides that sections 1 to 5 are effective January 1, 2024, and apply to all debts incurred on or after that date.