Assembly Bill No. 250–Assemblymembers Goulding; Anderson, Flanagan, Hunt, La Rue Hatch and Nguyen

Joint Sponsors: Senators Krasner and Steinbeck

CHAPTER.....

AN ACT relating to debt; establishing coerced debt as an affirmative defense in certain civil actions to collect an unsecured consumer debt; setting forth requirements for asserting the affirmative defense of coerced debt; requiring a court to take certain actions upon finding that a debt is a coerced debt; authorizing certain claims and remedies; revising provisions governing the presumption of intent to defraud in the issuance of certain instruments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the collection of debt by certain persons in this State, including, without limitation, collection agencies and private debt collectors. (*See, e.g.*, chapters 353C and 649 of NRS) **Section 1** of this bill establishes that, in any civil action to collect an unsecured consumer debt, a debtor may assert as an affirmative defense that the debt is a coerced debt. **Section 1** also: (1) sets forth the requirements for asserting the affirmative defense of coerced debt; and (2) requires a court, upon finding that a debt is a coerced debt, to order the creditor to cease collection efforts and, if applicable, correct certain records. In addition, **section 1** authorizes: (1) the creditor to join a third party who may be liable for the coerced debt or amend its complaint to assert a claim against any such person; and (2) the debtor to recover attorney's fees and costs from the person who coerced the debt.

Existing law makes it a crime to issue a check or draft against insufficient or no funds with intent to defraud. (NRS 205.130) Under existing law, intent to defraud and knowledge of insufficient funds are presumed to exist if payment of the instrument is refused by the drawee when presented in the usual course of business, unless the drawer pays the full amount due within 5 days after receiving notice from the drawee or the holder. (NRS 205.132) **Section 1.5** of this bill provides that, for the purpose of determining whether a check or draft is presented in the usual course of business, a check or draft that constitutes a credit instrument is deemed to be presented in the usual course of business if it is presented not more than 2 years after the date on which the credit instrument is issued.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any civil action to collect an unsecured consumer debt, it is an affirmative defense under applicable court rules that the debt is a coerced debt.

2. To assert the affirmative defense of coerced debt, a debtor must submit to the court:

(a) A written attestation that includes, without limitation:

(1) A statement that clearly identifies the specific debt the debtor asserts is a coerced debt;

(2) A description of the circumstances under which the alleged coerced debt was incurred, including specific facts supporting the allegation;

(3) Except as otherwise provided in subsection 4, any information known to the debtor regarding the identity and contact information of the person alleged to have coerced the debtor into incurring the debt; and

(4) A statement indicating the number of times the debtor has previously asserted the affirmative defense of coerced debt in any action or proceeding before a court in this State or any other state, including whether each such assertion was successful or unsuccessful; and

(b) A copy of at least one of the following documents:

(1) A police report, investigative report or complaint which the debtor filed with a law enforcement agency that is relevant to establishing that the debt is a coerced debt;

(2) A report filed with the Federal Trade Commission indicating that the debtor is a victim of identity theft; or

(3) A temporary or extended order for protection against domestic violence issued by a court of competent jurisdiction or other court record that is relevant to establishing that the debt is a coerced debt.

3. If the court determines that the debt identified by the debtor pursuant to subparagraph (1) of paragraph (a) of subsection 2 constitutes a coerced debt:

(a) The court shall order the creditor to immediately cease all collection efforts related to the coerced debt and, if applicable, to

take reasonable steps to correct any consumer credit report or similar record to reflect that the debt is a coerced debt;

(b) The creditor may join any third party who is or may be liable for the coerced debt or amend its complaint to assert a claim against any such person; and

(c) The debtor is entitled to recover from the person who coerced the debtor into incurring the coerced debt reasonable attorney's fees and costs, but may not recover such fees and costs from the creditor.

4. If the debtor believes that providing the information required by subparagraph (3) of paragraph (a) of subsection 2 is likely to result in abuse to the debtor or an immediate family member of the debtor, the debtor may, in lieu of providing the information, submit to the court a statement, signed and sworn to or affirmed by the debtor, that such disclosure is likely to result in abuse to the debtor or an immediate family member of the debtor.

5. As used in this section:

(a) "Coerced debt" means an unsecured consumer debt or any part thereof incurred for personal, family or household purposes as a result of fraud, duress, intimidation, threat of force or undue influence in the name of a debtor who is a victim of:

(1) Sex trafficking as defined in NRS 201.300; or

(2) Domestic violence, if the alleged perpetrator is a:

(I) Spouse or former spouse of the debtor;

(II) Person who has a child in common with the debtor;

(III) Person related by blood or marriage to the debtor;

(IV) Person who is living with or has lived with the debtor; or

(V) Person who was in a dating relationship with the debtor at the time the debt was incurred.

(b) "Unsecured consumer debt" does not include a credit instrument, as defined in NRS 463.01467.

(c) "Victim" includes a person who alleges that he or she is a victim of an act, regardless of whether or not the alleged perpetrator of the act has been charged with or convicted of the act.

Sec. 1.5. NRS 205.132 is hereby amended to read as follows:

205.132 1. In a criminal action for issuing a check or draft against insufficient or no funds with intent to defraud, that intent and the knowledge that the drawer has insufficient money, property or credit with the drawee is presumed to exist if:

(a) The instrument is drawn on a purported account which does not exist.

(b) Payment of the instrument is refused by the drawee when it is presented in the usual course of business, unless within 5 days after receiving notice of this fact from the drawee or the holder, the drawer pays the holder of the instrument the full amount due plus any handling charges. ***For the purposes of this paragraph, presentation of a check or draft that constitutes a credit instrument, as defined in NRS 463.01467, occurs in the usual course of business if the presentation occurs not more than 2 years after the date on which the credit instrument is issued.***

(c) Notice of refusal of payment, sent to the drawer by registered or certified mail at an address printed or written on the instrument, is returned because of nondelivery.

2. If a complainant causes a criminal action to be commenced for issuing a check or draft with intent to defraud and refuses to testify in the action, the complainant is presumed to have acted maliciously and without probable cause.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. This section becomes effective upon passage and approval.

2. Section 1.5 of this act becomes effective upon passage and approval, and applies to any credit instrument, as defined in NRS 463.01467, signed by a drawer before, on or after the effective date of section 1.5 of this act.

3. Section 1 of this act becomes effective on October 1, 2025, and applies to any action filed on or after October 1, 2025.

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