



New Jersey Bill Requires “Good Faith” Identity Theft Determinations By Debt Collectors

Client Advisories

12.02.2015

Legislation that has recently been introduced in New Jersey (S1344) addresses the responsibilities of debt collectors upon notice of a consumer's identity theft or misidentification. Originally introduced in 2014, it was recently passed by the New Jersey Senate. The bill requires, among other things, that debt collectors limit or, in some instances cease, debt collection against identity theft victims.

Specifically, this bill allows consumers 45 days from the date that they are first contacted by a debt collector to send written notice that they are the victims of identity theft or misidentification. A consumer's written notice claiming identity theft or miscommunication must include, among other things:

- A standardized affidavit of identity theft as established by the Federal Trade Commission (FTC);
- A statement that the consumer is the victim of identity theft or misidentification;
- Specific facts supporting the consumer's claim;
- Any available correspondence disputing the debt after transaction information had been provided to the consumer by the original creditor;
- Documentation of the consumer's residence at the time the alleged debt was incurred;
- A telephone number for contacting the consumer or for direction that further communications be in writing only, with the mailing address specified in the statement;
- The identification of any person the consumer believes is responsible for incurring the debt, if possible; and
- An express statement that the consumer did not authorize the use of the consumer's name or personal information for incurring the debt.

Debt collectors who receive notice that the consumer was an identity theft victim are then required to investigate and determine “in good faith” whether that consumer is responsible for the debt. If they determine that the consumer is not responsible for the debt, this bill bars the collection agency from pursuing the consumer further. The purpose of this bill is to prevent debt collectors from pestering innocent victims of identity theft as the victims attempt to restore their lives and avoid the financial ruin that identity theft may cause.

Now that this bill has been passed by the state Senate, it must still be approved by the Assembly before it heads to the governor. Archer’s **Commercial Collections & Consumer Litigation Group** will continue to monitor the bill and provide updates as warranted. If you have questions on how this bill may impact you, please contact **Thomas A. Muccifori, Esquire** at 856.354.3056 or tmuccifori@archerlaw.com.

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