AFSA
AMERICAN FINANCIAL SERVICES ASSOCIATION

September 3, 2025

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: Chapter Amendment Request for S1353B Relating to Coerced Debt

Dear Governor Hochul,

We write on behalf of the American Financial Services Association ("AFSA")[1] to express our grave concerns with Senate Bill 1353B. AFSA members acknowledge the disturbing realities of domestic violence and similar forms of abuse on affected individuals, mentally and physically, and also financially. We recognize the hardships that individuals who are victims of these crimes must face when they are confronted with economic abuse.

While highly sympathetic to these extremely difficult situations, our members are concerned with the legislation as written, because of the real possibility that its overly broad nature renders it open to exploitation by bad actors. To address these concerns and ensure the bill preserves its protections for victims without unnecessarily burdening creditors, we respectfully urge you to consider the following chapter amendments.

Secured Debt

One of the most troubling aspects of this legislation as written is that the definition of "debt" does not exclude secured debt, potentially interfering with a creditor's security interest in homes and vehicles financed. Therefore, the definition of "debt" should be amended as follows (new language in bold):

> "DEBT" MEANS ANY OBLIGATION OR ALLEGED OBLIGATION OF A CONSUMER TO PAY MONEY ARISING OUT OF A TRANSACTION IN WHICH THE MONEY, PROPERTY, INSURANCE, RENTAL ARREARS OWED FOR USE AND OCCUPANCY OF A DWELLING, OR SERVICES WHICH ARE THE SUBJECT OF SUCH TRANSACTION ARE PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, WHETHER OR

[1] Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members also provide commercial credit to vehicle and equipment dealers.

NOT SUCH OBLIGATION HAS BEEN REDUCED TO A JUDGMENT. **"DEBT" DOES NOT INCLUDE SECURED DEBT.**

Limiting the definition of debt to exclude secured debt will ensure New York's coerced debt process remains in line with other states that have addressed this issue in a similar way. Moreover, this change will ensure the legislation does not impinge on an area of law that is expansive and detailed, specifically in the areas of foreclosure, repossession, and deficiency-judgment statutes.

Family or Household Members Limitation

Currently, the definition of "economic abuse" is broad regarding those individuals who would be considered "family or household members". As written, an individual could qualify as such under seven different circumstances under the cross-reference to the current definition defined by New York law.[2] For reasons of precision, therefore, we respectfully recommend that the portion of the definition of "economic abuse" that states "...in the context of intimate relationships or relationships between family or household members as defined by section four hundred fifty-nine-a of the social services law…" is amended to the following:

"…IN THE CONTEXT OF INTIMATE RELATIONSHIPS OR RELATIONSHIPS BETWEEN FAMILY OR HOUSEHOLD MEMBERS RELATED BY EITHER THIRD-DEGREE CONSANGUINITY OR SECOND-DEGREE AFFINITY…"

This reasonable limitation on the definition of "family or household members" will allow institutions to construct a detailed process to ensure those who submit claims of coerced debt are doing so under a specific degree of consanguinity or affinity. This level of specificity is required to allow for a reasonable relationship that is not too attenuated, while allowing for the relationship to be properly traced to a specific extent known to the debtor and creditor.

Notice of Coerced Debt

To help ensure truthful and accurate claims of coerced debt are submitted to our members, we urge the addition of the penalty of perjury by the alleged debtor when submitting a notice of coerced debt. We therefore recommend the current language of the statement of coerced debt is amended as follows:

"A SWORN OR NOTARIZED STATEMENT BY YOU, THE ALLEGED DEBTOR, **UNDER THE PENALTY OF PERJURY,** STATING THAT A CERTAIN DEBT OR PORTION OF A DEBT BEING COLLECTED IS COERCED DEBT."

[2] NY Soc Serv L § 459-A(2)

This simple addition is paramount for the integrity of the process of claiming coerced debt and legitimates those who are submitting an honest claim, from unscrupulous actors.

While we agree that notices of coerced debt that are submitted orally are insufficient and a notice in writing is the sole method of properly notifying a creditor of a claim of coerced debt, we believe the reference to "orally" under § 604-bb(2) should be removed. As written, creditors will have to devote and devise serious resources to ensure staff are communicating to the debtor that a claim cannot be submitted orally and ensure that all sufficient notices are received in writing. Making clear that notices of coerced debt can only be submitted via writing is a commonsense approach, in which Minnesota[3] has recently adopted in their coerced debt statute.

Adequate Documentation

As written in S1353B, an FTC identity theft report to a creditor would satisfy the requirement of providing adequate documentation of coerced debt. While our members agree that proving a legitimate claim of coerced debt should not be overly difficult for a victim of economic abuse, there should be reasonable constraints in place. The FTC Identity Theft report is an unverified, self-reported claim of identity theft, whereas 604-AA(2)(A), (C), (D) all involve external validation or official findings of coerced debt (police investigation, court order, or qualified third-party verification). In fact, the FTC's identity theft website (https://www.identitytheft.gov/Steps) directs victims to pursue additional concrete remedies, reinforcing the form's function as a reporting mechanism only, and the website as one step for consumer guidance and data collection, but not as a conclusive determination or standalone solution for coerced debt. Therefore, we believe the following language in 604-AA(2)(B) should be stricken in its entirety:

> "A FEDERAL TRADE COMMISSION IDENTITY THEFT REPORT THAT IDENTIFIES A PARTICULAR DEBT, OR PORTION THEREOF, AS A COERCED DEBT."

If the language cannot be removed, we urge the following amendment to the current language:

> "A FEDERAL TRADE COMMISSION IDENTITY THEFT REPORT **SPECIFICALLY IDENTIFYING A PARTICULAR DEBT, OR PORTION THEREFORE, AS COERCED, BUT NOT AS IDENTITY THEFT"**.

This is a reasonable standard that is followed in California[4] and provides for a fair process for both the debtor and the creditor. Under this standard, there is less likelihood of fraud, including the increasingly common viral "credit washing" antics that are blasted in social media circles to facilitate fraud. With this

[3] MN Stat § 332.73, Subdivision 1
[4] CA Civ Code § 1798.97.1 et seq.

slight change, there is a greater chance of ensuring that resources are not diverted from legitimate victims.

Additionally, another form of adequate documentation that a creditor can receive from a debtor claiming debt is a result of coerced debt is a "notarized statement from a 'qualified third party' that you reported the coerced debt to." We ask that the language relating to the method of adequate documentation is amended to the following:

"**A SWORN WRITTEN CERTIFICATION, UNDER THE PENALTY OF PERJURY, FROM A QUALIFIED THIRD-PARTY PROFESSIONAL THAT THE DEBT WAS REPORTED TO WHILE ACTING IN A PROFESSIONAL CAPACITY**."

This is similar to California's approach to coerced debt, which balances the need to prevent fraud and ensure validity of the coerced debt by requiring the person who is attesting to the debt, do so knowing of the ramifications of fabricating the truth. Additionally, this amended language would make clear that the relationship in relation to reporting the debt is a professional one and cannot be done by parties in a manner that would appear as friendly or familial.

The current definition of "qualified third parties" is also problematic and includes individuals that are unlikely to be able to assist directly in management of claims of coerced debt, nor have appeared in other states where coerced debt reporting mechanisms exist. The following professions that are currently listed should be removed from the list of those who satisfy the "qualified third part[y]" standard:

a. Law enforcement officer;
b. Employee of a court of the state;
c. Attorney;
d. Physician;
e. Member of the clergy of a church or religious society or denomination.

While these professions are important to society and can provide vital support to victims of abuse, their ability to provide technical assistance in cases of coerced debt is limited and does not align with the other professions listed.

Also, we request that reference to "ELECTED OFFICIALS" is removed from the "EXAMPLES OF 'QUALIFIED THIRD PARTIES'…" that is found under the insufficient written notice requirement pursuant to New York General Business Law 604-bb. This unique term cannot be found elsewhere in the legislation and is distinct from arguably the closest reference in the legislation to this term, "person employed by or working on behalf of a government or non-profit office, agency, or service that advises or provides services to persons regarding domestic violence, family violence, human trafficking, or abuse of children, the elderly, or dependent adults.

Private Right of Action:

We are already bearing the burden of financial loss through this bill. While our members are sympathetic to victims of coerced debt, we do not believe that these victims of coerced debt should be allowed to pursue a private right of action against a creditor acting in good faith. As written, we are to be held responsible for this financial loss AND through a private right of action, potentially liable for statutory damages, actual damages and costs and attorneys' fees. This is overly burdensome and unnecessary, as it imposes liability upon a good-faith creditor, absent any involvement in the underlying debt coercion, for the actions of a third-party perpetrator; therefore, we believe the following language allowing for a private right of action should be stricken in its entirety:

> ~~"A DEBTOR INJURED BY A VIOLATION OF THIS SECTION SHALL HAVE A CAUSE OF ACTION AGAINST THE CREDITOR TO RECOVER STATUTORY DAMAGES OF ONE THOUSAND DOLLARS, ACTUAL DAMAGES, IF ANY, AND THE COSTS AND ATTORNEYS' FEES REASONABLY INCURRED IN BRINGING SUCH ACTION."~~

Fraud Provision

AFSA members' primary concern with this legislation is the possibility that it may trigger a proliferation of fraudulent claims submitted by debtors that have no connection to actual instances of coerced debt. If bad actors can submit claims of coerced debt at will with no repercussion, our members are forced to dedicate tremendous resources to managing those claims, diverting them from true victims of coerced debt. In order to combat those acting in bad faith and attempting to defraud our members, an anti-fraud provision is necessary. We suggest that the following language be inserted:

> **"NOTHING IN THIS CHAPTER SHALL PREVENT A CREDITOR FROM SEEKING RECOURSE FOR FALSE OR FRAUDULENT CLAIMS OF COERCED DEBT."**

Effective Date

The legislation as written is unprecedented and seeks to dramatically alter the landscape for coerced debt in New York. This legislation is far more far-reaching than we have seen in other states. This departure from other coerced debt laws will require new systems and procedures to be put-in-place by AFSA members to ensure full compliance and the relief for victims, as the legislation intends. For this reason, we respectfully request a delay in the effective date to allow our members, both large and small institutions alike, ample time to prepare to comply. Large institutions will need to ensure the reporting process is fully operational for any one victim amongst millions of customers. While smaller institutions will need to create, implement, streamline and test sophisticated novel processes. For these reasons, we would urge the effective date to be changed from ninety days to at least one hundred eighty days.

Similarly, we would appreciate the addition of language to make clear that this legislation is not retroactive in nature. This would eliminate potential fraudulent claims from the past and would also serve to ensure our members would be not diverting resources to rightful debts that are now put into question by a law that seeks to encompass past actions. The following language should be added after the effective date:

> **"THIS CHAPTER APPLIES ONLY TO DEBTS INCURRED ON OR AFTER THE EFFECTIVE DATE."**

Conclusion

We do not take the disturbing occurrences of physical and mental abuse that turns into economic abuse lightly. We believe the incorporation of the language changes suggested in this letter will produce a piece of policy that is fit-for-purpose, allowing victims of economic abuse to seek relief from coerced debt, while protecting creditors from spurious and fraudulent claims under the law.

We appreciate your attention to these significant concerns and respectfully urge your office to take swift action in addressing the challenges outlined above. Thank you for considering our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact us by email at coconnor@afsamail.org or by phone at 585-953-9624.

Sincerely,

Christian O'Connor

Christian O'Connor
State Legislative and Regulatory Counsel
American Financial Services Association