

By Senator Williams

4-958-98

1                                   A bill to be entitled  
2           An act relating to consumer protection;  
3           amending s. 216.053, F.S.; authorizing the  
4           Department of Revenue to provide certain  
5           information to the Division of Consumer  
6           Services of the Department of Agriculture and  
7           Consumer Services; amending s. 496.404, F.S.;  
8           modifying the definition of "parent  
9           organization" for purposes of the charitable  
10          solicitation law; amending s. 496.405, F.S.;  
11          providing a registration fee for certain  
12          charitable organizations; amending s. 496.406,  
13          F.S.; deleting an exemption from the  
14          registration requirements for charitable  
15          organizations; amending s. 501.143, F.S.;  
16          deleting a specified date for the registration  
17          of ballroom dance studios; amending s. 501.607,  
18          F.S.; modifying the information to be included  
19          on an application for licensure as a  
20          salesperson under the Florida Telemarketing  
21          Act; amending s. 539.001, F.S.; prescribing an  
22          annual renewal for pawnbroker's licenses;  
23          providing a license fee of a specific amount;  
24          requiring applicants to pay the cost of  
25          fingerprinting analysis; prescribing additional  
26          information that must accompany an application;  
27          requiring an applicant to provide notice of  
28          changes in information required in the  
29          application; providing for suspension,  
30          revocation, or surrender of a license if the  
31          licensee fails to meet the eligibility

1 requirements; prohibiting a licensee, or its  
2 agent or employee, from employing felons and  
3 other specified criminals; amending s. 559.725,  
4 F.S.; prescribing duties of the Department of  
5 Agriculture and Consumer Complaints relating to  
6 consumer complaints; amending s. 559.805, F.S.;  
7 prescribing responsibilities of business  
8 opportunity sellers; amending s. 559.904, F.S.;  
9 providing for payment of a late fee by motor  
10 vehicle repair shops that fail to timely renew  
11 their registrations; providing an effective  
12 date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (o) is added to subsection (7) of  
17 section 213.053, Florida Statutes, to read:

18 213.053 Confidentiality and information sharing.--

19 (7) Notwithstanding any other provision of this  
20 section, the department may provide:

21 (o) Names, addresses, and sales tax registration  
22 information to the Division of Consumer Services of the  
23 Department of Agriculture and Consumer Services in the conduct  
24 of its official duties.

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26 Disclosure of information under this subsection shall be  
27 pursuant to a written agreement between the executive director  
28 and the agency. Such agencies, governmental or  
29 nongovernmental, shall be bound by the same requirements of  
30 confidentiality as the Department of Revenue. Breach of

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1 confidentiality is a misdemeanor of the first degree,  
2 punishable as provided by s. 775.082 or s. 775.083.

3 Section 2. Subsection (16) of section 496.404, Florida  
4 Statutes, is amended to read:

5 496.404 Definitions.--As used in ss. 496.401-496.424:

6 (16) "Parent organization" means that part of a  
7 charitable organization or sponsor which coordinates,  
8 supervises, or exercises control over policy, fundraising, and  
9 expenditures or assists or advises one or more of its  
10 chapters, branches, or affiliates in this state.

11 Section 3. Paragraph (a) of subsection (4) of section  
12 496.405, Florida Statutes, is amended to read:

13 496.405 Registration statements by charitable  
14 organizations and sponsors.--

15 (4)(a) Every charitable organization, sponsor, or  
16 parent organization filing on behalf of one or more chapters,  
17 branches, or affiliates that is required to register under  
18 this section must pay a single registration fee. A parent  
19 organization filing on behalf of one or more chapters,  
20 branches, or affiliates shall total all contributions received  
21 by the chapters, branches, or affiliates included in the  
22 registration statement to determine registration fees. Fees  
23 shall be assessed as follows:

24 1. Ten dollars, if the contributions received for the  
25 last fiscal or calendar year were less than \$5,000.+

26 2. Seventy-five dollars, if the contributions received  
27 for the last fiscal year were \$5,000 or more, but less than  
28 \$100,000.+

29 3. One hundred twenty-five dollars, if the  
30 contributions received for the last fiscal year were \$100,000  
31 or more, but less than \$200,000.+

1           4. Two hundred dollars, if the contributions received  
2 for the last fiscal year were \$200,000 or more, but less than  
3 \$500,000.~~†~~

4           5. Three hundred dollars, if the contributions  
5 received for the last fiscal year were \$500,000 or more, but  
6 less than \$1 million.~~†~~

7           6. Three hundred fifty dollars, if the contributions  
8 received for the last fiscal year were \$1 million or more, but  
9 less than \$10 million.~~†~~

10          7. Four hundred dollars, if the contributions received  
11 for the last fiscal year were \$10 million or more.

12          8. Ten dollars, for charitable organizations or  
13 sponsors whose fundraising activities are carried on by  
14 volunteers, members, officers, or permanent employees who are  
15 not compensated primarily to solicit contributions and which  
16 do not actually raise or receive contributions from the public  
17 in excess of \$25,000 during the immediately preceding fiscal  
18 year, if no part of their assets or income inures to the  
19 benefit of or is paid to any officer or member, professional  
20 fundraising consultant, professional solicitor, or commercial  
21 co-venturer.

22          Section 4. Section 496.406, Florida Statutes, is  
23 amended to read:

24          496.406 Procedures for claiming an exemption from  
25 registration.--

26          ~~(1)(a)~~ The following charitable organizations and  
27 sponsors are exempt from the requirements of s. 496.405:

28          (1)†. A person who is soliciting for a named  
29 individual, provided that all the contributions collected  
30 without any deductions whatsoever are turned over to the  
31

1 beneficiary for her or his use and provided that the person  
2 has complied with the requirements of s. 496.413.

3 (2)~~2~~. A charitable organization or sponsor which  
4 limits solicitation of contributions to the membership of the  
5 charitable organization or sponsor. For the purposes of this  
6 subsection paragraph, the term "membership" does not include  
7 those persons who are granted a membership upon making a  
8 contribution as a result of a solicitation.

9 ~~(b) The following charitable organizations and~~  
10 ~~sponsors must follow the procedures in subsection (2) in order~~  
11 ~~to be exempt from the requirements of s. 496.405: charitable~~  
12 ~~organizations or sponsors whose fundraising activities are~~  
13 ~~carried on by volunteers, members, officers, or permanent~~  
14 ~~employees who are not compensated primarily to solicit~~  
15 ~~contributions and which do not actually raise or receive~~  
16 ~~contributions from the public in excess of \$25,000 during the~~  
17 ~~immediately preceding fiscal year, if no part of their assets~~  
18 ~~or income inures to the benefit of or are paid to any officer~~  
19 ~~or member, professional fundraising consultant, professional~~  
20 ~~solicitor, or commercial co-venturer. Charitable organizations~~  
21 ~~or sponsors which do not intend to solicit and receive~~  
22 ~~contributions in excess of \$25,000, but do receive~~  
23 ~~contributions in excess of that amount, shall file an initial~~  
24 ~~registration statement or annual renewal statement with the~~  
25 ~~department pursuant to s. 496.405 within 30 days after~~  
26 ~~contributions are received in excess of that amount.~~

27 ~~(2) Any charitable organization or sponsor claiming to~~  
28 ~~be exempt under paragraph (1)(b) must submit annually to the~~  
29 ~~department, on forms to be prescribed by the department,~~  
30 ~~accompanied by a \$10 fee, a sworn statement setting forth the~~  
31 ~~name and address of the organization and its principal~~

1 ~~executive personnel, the purpose of the organization, and the~~  
2 ~~factual basis for the exemption. In addition, a charitable~~  
3 ~~organization or sponsor claiming to be exempt under paragraph~~  
4 ~~(1)(b) must include a copy of any financial statement, report,~~  
5 ~~or return filed with the Internal Revenue Service. The~~  
6 ~~department must issue annually a letter of exemption to those~~  
7 ~~organizations or sponsors exempt under paragraph (1)(b).~~

8 Section 5. Paragraph (a) of subsection (3) of section  
9 501.143, Florida Statutes, is amended to read:

10 501.143 Dance Studio Act.--

11 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.--

12 (a) Each owner or operator of a ballroom dance studio  
13 shall annually register with the department ~~no later than~~  
14 ~~October 1~~, providing its legal business or trade name, mailing  
15 address, and business locations, and the full names,  
16 addresses, and telephone numbers of its owners or corporate  
17 officers and directors and the Florida agent of the  
18 corporation. A copy of all contracts offered to the public  
19 shall also be submitted to the department. A certificate  
20 evidencing proof of registration shall be issued by the  
21 department. This certificate must be prominently displayed at  
22 the sales or front desk at each business location of a  
23 ballroom dance studio defined in subparagraph (2)(a)1.  
24 Ballroom dance studios defined in subparagraph (2)(a)2. must  
25 possess the certificate when providing dance studio lessons or  
26 services.

27 Section 6. Paragraph (d) of subsection (1) of section  
28 501.607, Florida Statutes, is amended to read:

29 501.607 Licensure of salespersons.--

30 (1) An applicant for a license as a salesperson must  
31 submit to the department, in such form as it prescribes, a

1 written application for a license. The application must set  
2 forth the following information:

3 (d) Whether the applicant, regardless of adjudication  
4 ~~conviction~~, has previously been arrested for, convicted or  
5 found guilty of, has entered a plea of guilty or a plea of  
6 nolo contendere to, or is under indictment or information for,  
7 a felony and, if so, the nature of the felony.

8 Section 7. Paragraph (c) of subsection (3), paragraphs  
9 (c) and (d) of subsection (5), paragraph (a) of subsection (6)  
10 and paragraph (m) of subsection (12) of section 539.001,  
11 Florida Statutes, are amended to read:

12 539.001 The Florida Pawnbroking Act.--

13 (3) LICENSE REQUIRED.--

14 (c) Each license remains in effect for 1 year from the  
15 date of issuance, at which time it expires, or until it is  
16 relinquished, suspended, or revoked, ~~or expires~~. Each licensee  
17 shall annually file an initial license application or renewal  
18 application and pay to the agency a license fee of not to  
19 ~~exceed~~ \$300 for each license held plus the actual costs of  
20 fingerprinting analysis to cover the costs of investigating  
21 each person subject to subsection (4). ~~If the annual license~~  
22 ~~fee remains unpaid 30 days after written notice of delinquency~~  
23 ~~has been given to the licensee by the agency, the license~~  
24 ~~shall thereupon expire on the expiration date specified in the~~  
25 ~~registration certificate.~~

26 (5) APPLICATION FOR LICENSE.--

27 (c) Each application for a license must be accompanied  
28 by a full set of fingerprints of any person subject to the  
29 eligibility requirements on a form approved by the agency and  
30 by an application fee of ~~set by the agency not to exceed~~ \$300,  
31 ~~which shall include the license fee for the first year's~~

1 ~~operation,~~ plus the actual cost for fingerprint analysis for  
2 each ~~owner~~ application, to cover the costs of investigating  
3 each person subject to subsection (4)~~the applicant~~. These  
4 fees are not refundable. If any change in the information  
5 included in a new application set forth in subsection (4)  
6 occurs before the date for annual renewal, the applicant must  
7 notify the department in writing within 10 days of the change.

8 (d) When the application and the required fees are  
9 received, the agency shall investigate the facts, approve the  
10 application, and issue a license to the applicant if the  
11 agency finds that the eligibility requirements for the license  
12 are satisfied. The agency shall forward the full set of  
13 fingerprints received with each application to the Department  
14 of Law Enforcement for state and federal processing, provided  
15 the federal service is available, to be processed for any  
16 criminal justice information. The license must be prominently  
17 displayed at the front desk or counter at each pawnshop.

18 (6) SUSPENSION, REVOCATION, AND SURRENDER OF LICENSE;  
19 NET WORTH REQUIREMENT.--

20 (a) The agency may, after notice and a hearing,  
21 suspend or revoke any license upon a finding that:

22 1. The licensee, either knowingly or without the  
23 exercise of due care, has violated this section or has aided  
24 or conspired with another person to violate this section;

25 2. A condition exists that, had it existed when the  
26 original license was issued, would have justified the agency's  
27 refusal to issue a license; ~~or~~

28 3. The licensee no longer meets the eligibility  
29 requirements of this chapter; or  
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1           4.3. The licensee has through gross negligence or  
2 willful noncompliance failed to comply with a written hold  
3 order.

4           (12) PROHIBITED ACTS.--A pawnbroker, or an employee or  
5 agent of a pawnbroker, may not:

6           (m) Knowingly hire or employ anyone to work in a  
7 pawnshop who has been convicted of, or entered a plea of  
8 guilty or nolo contendere to, or had adjudication withheld for  
9 a felony within the last 5 years, or been convicted of, or  
10 entered a plea of guilty or nolo contendere to, or had  
11 adjudication withheld for a crime within the last 5 years  
12 which involves theft, larceny, dealing in stolen property,  
13 receiving stolen property, burglary, embezzlement, obtaining  
14 property by false pretenses, possession of altered property,  
15 or any fraudulent, or dishonest dealing.

16           Section 8. Subsections (1), (2), (3), and (4) of  
17 section 559.725, Florida Statutes, are amended to read:

18           559.725 Consumer complaints; administrative duties.--

19           (1) The department ~~Division of Consumer Services~~ shall  
20 serve as the registry for receiving and maintaining records of  
21 inquiries, correspondence, and complaints from consumers  
22 concerning any and all persons who collect debts, including  
23 consumer collection agencies.

24           (2) The department ~~division~~ shall classify complaints  
25 by type and identify the number of written complaints against  
26 persons collecting or attempting to collect debts in this  
27 state, including credit grantors collecting their own debts,  
28 debt collectors generally, and, specifically, consumer  
29 collection agencies as distinguished from other persons who  
30 collect debts such as commercial debt collection agencies  
31 regulated under part V of this chapter. The department

1 ~~division~~ shall identify the nature and number of various kinds  
2 of written complaints, including specifically those alleging  
3 violations of s. 559.72.

4 (3) The department ~~division~~ shall inform and furnish  
5 relevant information to the appropriate regulatory body of the  
6 state, or The Florida Bar in the case of attorneys, when any  
7 consumer debt collector exempt from registration under this  
8 part has been named in five or more written consumer  
9 complaints alleging violations of s. 559.72 within a 12-month  
10 period.

11 (4) The department ~~division~~ shall furnish a form to  
12 each complainant whose complaint concerns an alleged violation  
13 of s. 559.72 by a consumer collection agency. Such form may  
14 be filed with the department ~~Department of Banking and~~  
15 ~~Finance~~. The form shall identify the accused consumer  
16 collection agency and provide for the complainant's summary of  
17 the nature of the alleged violation and facts which allegedly  
18 support the complaint. The form shall include a provision for  
19 the complainant to state under oath before a notary public  
20 that the allegations therein made are true.

21 Section 9. Subsection (2) of section 559.805, Florida  
22 Statutes, is amended to read:

23 559.805 Filings with the department; disclosure of  
24 advertisement identification number.--

25 (2) Upon the filing of the disclosure statement and  
26 the posting of a bond or the establishment of a trust account  
27 or a guaranteed letter of credit, if any is required, the  
28 department shall issue to the business opportunity seller an  
29 advertisement identification number. The business opportunity  
30 seller shall include and prominently display the advertisement  
31 identification number in all written advertisements, sales

1 materials, promotional documents, and business opportunity  
2 contracts.

3 Section 10. Subsection (8) of section 559.904, Florida  
4 Statutes, is amended to read:

5 559.904 Motor vehicle repair shop registration;  
6 application; exemption.--

7 (8) Each registration must be renewed annually. If an  
8 application for renewal of a motor vehicle repair shop is not  
9 received by the department on or before the current  
10 registration's expiration date, a late fee in the amount of  
11 \$25 must be paid in addition to the registration fee or any  
12 other penalty before the department may issue the  
13 registration.

14 Section 11. This act shall take effect July 1, 1998.

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17 SENATE SUMMARY

18 Amends various statutes relating to consumer protection  
19 and the duties of the Department of Agriculture and  
20 Consumer Services and the Division of Consumer Services  
21 of the department. Salient changes include: authorization  
22 for the Department of Revenue to provide the department  
23 with tax registration information; provision of a  
24 registration fee and deletion of an exemption from  
25 registration for certain charitable organizations;  
26 modification of license application information for a  
27 salesperson under the Florida Telemarketing Act;  
28 modification of provisions relating to the licensure,  
29 fees, and eligibility of pawnbrokers; clarification of  
30 the duties of the department relating to consumer  
31 complaints; specification of responsibility of a business  
opportunity seller; and creation of a late fee to be paid  
by motor vehicle repair shops that fail to timely renew  
their registrations.