

Bill No. CS for CS for SB 392

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Laurent moved the following amendment:

Senate Amendment (with title amendment)

On page 38, between lines 2 and 3,

insert:

Section 26. Subsections (16) and (17) of section 559.72, Florida Statutes, are amended, and subsections (18) and (19) are added to that section, to read:

559.72 Prohibited practices generally.--In collecting consumer debts, no person shall:

(16) Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe"; ~~or~~

(17) Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor; ~~or~~

(18) Communicate with a debtor if the person knows the debtor is represented by an attorney with respect to such debt

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1 and has knowledge of, or can be readily ascertain, such
2 attorney's name and address, unless the debtor's attorney
3 fails to respond within a reasonable period of time to a
4 communication from the person or unless the debtor's attorney
5 consents to direct communication with the debtor; or

6 (19) Cause charges to be made to any debtor for
7 communications by concealment of the true purpose of the
8 communication, including collect calls and telegram fees.

9 Section 27. Section 559.77, Florida Statutes, is
10 amended to read:

11 559.77 Civil remedies.--

12 (1) A debtor may bring a civil action against a person
13 violating the provisions of s. 559.72 in a court of competent
14 jurisdiction of the county in which the alleged violator
15 resides or has his or her principal place of business or in
16 the county wherein the alleged violation occurred.

17 (2) Upon adverse adjudication, the defendant shall be
18 liable for actual damages and for additional statutory damages
19 of up to \$1,000 or \$500, whichever is greater, together with
20 court costs and reasonable attorney's fees incurred by the
21 plaintiff. In determining the defendant's liability for any
22 additional statutory damages, the court shall consider the
23 nature of the defendant's compliance with s. 559.72, the
24 frequency and persistence of such noncompliance, and the
25 extent to which such noncompliance was intentional. In any
26 class action lawsuit brought under this section, the court may
27 award additional statutory damages of up to \$1,000 for each
28 named plaintiff, and an aggregate award of additional
29 statutory damages not to exceed the lesser of \$500,000 or 1
30 percent of the defendant's net worth for all remaining class
31 members.The court may, in its discretion, award punitive

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1 damages and may provide such equitable relief as it deems
2 necessary or proper, including enjoining the defendant from
3 further violations of this part. If the court finds that the
4 suit fails to raise a justiciable issue of law or fact, the
5 plaintiff shall be liable for court costs and reasonable
6 attorney's fees incurred by the defendant.

7 (3) A person shall not be held liable in any action
8 brought under this section if the person shows by a
9 preponderance of the evidence that the violation was not
10 intentional and resulted from a bona fide error
11 notwithstanding the maintenance of procedures reasonably
12 adapted to avoid any such error.

13 (4) An action brought under this section must be
14 commenced within 2 years after the date on which the alleged
15 violation occurred.

16 Section 28. Sections 26 and 27 of this act shall take
17 effect July 1, 2000, and apply to any cause of action accruing
18 on or after that date.

19
20 (Redesignate subsequent sections.)

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22
23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page 3, line 5, after the semicolon

26
27 insert:

28 amending s. 559.72, F.S.; prohibiting certain
29 communications with a debtor's attorney;
30 prohibiting the causing of charges to be made
31 to any debtor; providing penalties; amending s.

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1 559.77, F.S.; revising civil remedy;
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