

By Representative Cantens

1 A bill to be entitled
 2 An act relating to consumer collection
 3 practices; amending s. 559.72, F.S.; specifying
 4 additional prohibited practices in collecting
 5 consumer debts; providing penalties; amending
 6 s. 559.77, F.S.; revising civil remedies;
 7 providing for increased statutory damages under
 8 certain circumstances; providing for absence of
 9 liability under certain circumstances;
 10 specifying a time certain for bringing certain
 11 actions; providing an effective date.

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

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 15 Section 1. Subsections (16) and (17) of section
 16 559.72, Florida Statutes, are amended, and subsections (18)
 17 and (19) are added to said section, to read:

18 559.72 Prohibited practices generally.--In collecting
 19 consumer debts, no person shall:

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

25 (17) Communicate with the debtor between the hours of
 26 9 p.m. and 8 a.m. in the debtor's time zone without the prior
 27 consent of the debtor;~~-~~

28 (18) Communicate with a debtor if the person knows the
 29 debtor is represented by an attorney with respect to such debt
 30 and has knowledge of, or can readily ascertain, such
 31 attorney's name and address, unless the debtor's attorney

1 fails to respond within a reasonable period of time to a
2 communication from the person or unless the debtor's attorney
3 consents to direct communication with the debtor; or
4 (19) Cause charges to be made to any debtor for
5 communications by concealment of the true purpose of the
6 communication, including collect telephone calls and telegram
7 fees.

8 Section 2. Section 559.77, Florida Statutes, is
9 amended to read:

10 559.77 Civil remedies.--

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

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

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

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

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

15 Section 3. This act shall take effect July 1, 2001,
16 and applies to any cause of action accruing on or after that
17 date.

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20 HOUSE SUMMARY

21 Prohibits, in collecting consumer debts, communicating
22 with a debtor who is represented by an attorney and
23 causing charges to be made to a debtor for communications
24 by concealing the true purpose of the communications.
25 Revises civil remedies provisions to provide for
26 additional statutory damages, immunity from liability,
27 and a time certain for bringing actions. See bill for
28 details.