

1                   A bill to be entitled  
2           An act relating to commercial and consumer collection  
3           practices; amending s. 559.544, F.S.; deleting provisions  
4           requiring registration as a commercial collection agency;  
5           specifying nonapplication of certain registration  
6           requirements to certain persons or entities; amending s.  
7           559.545, F.S.; revising requirements and procedures for  
8           application for registration as a commercial collection  
9           agency; authorizing the Financial Services Commission to  
10          adopt rules; providing for fees; providing for amendments  
11          to and changes in registrations; authorizing the Office of  
12          Financial Regulation to deny registrations under certain  
13          circumstances; amending s. 559.546, F.S.; providing  
14          requirements and procedures for issuance of a corporate  
15          surety bond; creating ss. 559.5471, 559.5473, 559.5474,  
16          559.5475, 559.5476, 559.5477, and 559.5479, F.S.;  
17          specifying powers and duties of the Office of Financial  
18          Regulation; providing procedures; providing for  
19          disposition of fees; authorizing the office to adopt  
20          rules; authorizing the office to issue subpoenas;  
21          providing requirements, procedures, and limitations;  
22          authorizing the office to assess certain investigation  
23          costs and expenses; authorizing the office to bring  
24          certain actions for injunctions to restrain certain  
25          violations; providing requirements and procedures;  
26          authorizing the office to issue certain cease and desist  
27          orders and take certain corrective actions for certain  
28          violations; authorizing the office to seed orders of

29 restitution of certain funds; providing for admissibility  
30 of certain documents and materials of the office as  
31 evidence; requiring registrants to maintain certain  
32 records; providing requirements and procedures for  
33 maintaining such records; authorizing the office to adopt  
34 rules; authorizing the office to revoke or suspend  
35 registrations for certain activities by a registrant;  
36 providing requirements and procedures for termination of a  
37 registration; authorizing the office to impose  
38 administrative fines; providing requirements and  
39 limitations; providing guidelines for imposing  
40 administrative remedies or penalties; amending s. 559.55,  
41 F.S.; revising definitions; providing additional  
42 definitions; amending s. 559.552, F.S.; revising  
43 provisions specifying the relationship of state and  
44 federal laws; providing construction; amending s. 559.553,  
45 F.S.; deleting provisions requiring registration as a  
46 consumer collection agency; specifying nonapplication of  
47 certain registration requirements to certain persons or  
48 entities; amending s. 559.555, F.S.; revising requirements  
49 and procedures for application for registration as a  
50 consumer collection agency; authorizing the Financial  
51 Services Commission to adopt rules; providing for fees;  
52 providing for amendments to and changes in registrations;  
53 authorizing the Office of Financial Regulation to deny  
54 registrations under certain circumstances; creating s.  
55 559.556, F.S.; providing requirements and procedures for  
56 issuance of a corporate surety bond; amending s. 559.72,

57 F.S.; specifying prohibited activities in collecting  
58 consumer debts; providing requirements for debt collectors  
59 communicating with certain persons; providing prohibitions  
60 and limitations; providing notification requirements;  
61 prohibiting false, deceptive or misleading representations  
62 by a debt collector; prohibiting unfair or unconscionable  
63 means of collecting debts; requiring debt collectors to  
64 provide certain notice to consumers in connection with  
65 collecting a debt; specifying required information;  
66 providing procedures and requirements for disputing a  
67 debt; providing procedures and requirements for payments  
68 on multiple debts; providing requirements for debt  
69 collectors bringing legal actions on a debt; prohibiting  
70 designing, compiling and furnishing certain misleading  
71 forms; providing for liability for certain violations;  
72 amending s. 559.725, F.S.; revising provisions providing  
73 requirements and procedures for consumer complaints;  
74 creating ss. 559.726, 559.7262, 559.7263, 559.7264, and  
75 559.7265, F.S.; specifying powers and duties of the Office  
76 of Financial Regulation; providing procedures; providing  
77 for disposition of fees; authorizing the office to adopt  
78 rules; authorizing the office to issue subpoenas;  
79 providing requirements, procedures, and limitations;  
80 authorizing the office to assess certain investigation  
81 costs and expenses; authorizing the office to bring  
82 certain actions for injunctions to restrain certain  
83 violations; providing requirements and procedures;  
84 authorizing the office to issue certain cease and desist

85 orders and take certain corrective actions for certain  
86 violations; authorizing the office to seek orders of  
87 restitution of certain funds; providing for admissibility  
88 of certain documents and materials of the office as  
89 evidence; requiring registrants to maintain certain  
90 records; providing requirements and procedures for  
91 maintaining such records; authorizing the office to adopt  
92 rules; amending s. 559.730, F.S.; authorizing the office  
93 to revoke or suspend registrations for certain activities  
94 by a registrant; providing requirements and procedures for  
95 termination of a registration; authorizing the office to  
96 impose administrative fines; providing requirements and  
97 limitations; creating s. 559.735, F.S.; providing  
98 guidelines for imposing administrative remedies or  
99 penalties; amending s. 559.77, F.S.; specifying  
100 application of certain provisions of law; amending s.  
101 559.785, F.S.; increasing criminal penalties for certain  
102 activities; specifying a criminal penalty for certain  
103 activities; authorizing the office to refer certain  
104 evidence to certain agencies for certain purposes;  
105 creating s. 559.786, F.S.; requiring the office to submit  
106 an annual report; specifying contents; repealing ss.  
107 559.547 and 559.563, F.S., relating to void registrations;  
108 repealing s. 559.565, F.S., relating to enforcement  
109 actions against out-of-state consumer debt collectors;  
110 providing an appropriation; providing an effective date.

111  
112 Be It Enacted by the Legislature of the State of Florida:

113  
114 Section 1. Section 559.544, Florida Statutes, is amended  
115 to read:

116 559.544 ~~Registration required; Exemptions.--~~

117 ~~(1) No person shall engage in business in this state as a~~  
118 ~~commercial collection agency, as defined in this part, or~~  
119 ~~continue to do business in this state as a commercial collection~~  
120 ~~agency, without first registering in accordance with this part~~  
121 ~~and thereafter maintaining such registration.~~

122 ~~(2) Each commercial collection agency doing business in~~  
123 ~~this state shall register with the office and annually renew~~  
124 ~~such registration, providing the registration fee, information,~~  
125 ~~and surety bond required by this part.~~

126 ~~(3) No registration shall be valid for any commercial~~  
127 ~~collection agency transacting business at any place other than~~  
128 ~~that designated in the registration unless the office is first~~  
129 ~~notified in advance of any change of location. A registration~~  
130 ~~under this part is not transferable or assignable. Any~~  
131 ~~commercial collection agency desiring to change its registered~~  
132 ~~name, location, or agent for service of process at any time~~  
133 ~~other than renewal of registration shall notify the office of~~  
134 ~~such change prior to the change.~~

135 ~~(4) The office shall not accept any registration for any~~  
136 ~~commercial collection agency as validly made and filed with the~~  
137 ~~office under this section unless the registration information~~  
138 ~~furnished to the office by the registrant is complete pursuant~~  
139 ~~to s. 559.545 and facially demonstrates that such registrant is~~  
140 ~~qualified to engage in business as a commercial collection~~

141 ~~agency, including specifically that neither the registrant nor~~  
 142 ~~any principal of the registrant has engaged in any unlawful~~  
 143 ~~collection practices, dishonest dealings, acts of moral~~  
 144 ~~turpitude, or other criminal acts that reflect an inability to~~  
 145 ~~engage in the commercial collection agency business. The office~~  
 146 ~~shall inform any person whose registration is rejected by the~~  
 147 ~~office of the fact of and basis for such rejection. A~~  
 148 ~~prospective registrant shall be entitled to be registered when~~  
 149 ~~her or his or its registration information is complete on its~~  
 150 ~~face, the applicable registration fee has been paid, and the~~  
 151 ~~required evidence of current bond is furnished to the office.~~

152 ~~(5) The registration requirements of s. 559.545 do This~~  
 153 ~~section shall not apply to:~~

154 ~~(1)(a)~~ A member of The Florida Bar, unless the ~~such~~ person  
 155 is primarily engaged in the collection of commercial claims.  
 156 "Primarily engaged in the collection of commercial claims" means  
 157 that more than one-half of the person's ~~income of such person~~  
 158 arises from the business of soliciting commercial claims for  
 159 collection or collecting commercial claims.

160 ~~(2)(b)~~ A financial institution authorized to do business  
 161 in this state or ~~and any~~ wholly owned subsidiary or an ~~and~~  
 162 affiliate thereof.

163 ~~(3)(c)~~ A licensed real estate broker.

164 ~~(4)(d)~~ A title insurance company authorized to do business  
 165 in this state.

166 ~~(5)(e)~~ A licensed consumer collection agency that ~~which~~ is  
 167 not primarily engaged in the collection of commercial claims.  
 168 "Not primarily engaged in the collection of commercial claims"

169 means that less than one-half of the collection revenue of the  
 170 ~~such~~ agency arises from the collection of commercial claims.

171 ~~(6)(f)~~ A consumer finance company or ~~and any~~ wholly owned  
 172 subsidiary or an ~~and~~ affiliate thereof.

173 ~~(7)(g)~~ A person licensed pursuant to chapter 520.

174 ~~(8)(h)~~ A credit grantor.

175 ~~(9)(i)~~ An out-of-state collector ~~as defined in this part.~~

176 ~~(10)(j)~~ An FDIC-insured institution or subsidiary or  
 177 affiliate thereof.

178 Section 2. Section 559.545, Florida Statutes, is amended  
 179 to read:

180 (Substantial rewording of section. See s.

181 559.545, Florida Statutes, for current text.)

182 559.545 Registration of commercial collection agencies;  
 183 procedure.--

184 (1) A person may not engage in business in this state as a  
 185 commercial collection agency, as defined in this part, or  
 186 continue to do business in this state as a commercial collection  
 187 agency, unless the person is registered with the office  
 188 according to this part and thereafter maintains the  
 189 registration.

190 (2) A registration is not valid for any commercial  
 191 collection agency transacting business at any place other than  
 192 the place designated in the registration unless the office is  
 193 first notified in advance of any change of location.

194 (3) Any person who applies for registration as a  
 195 commercial collection agency in compliance with this part shall  
 196 do so on forms adopted by the commission and furnished by the

197 office. The commission may establish by rule procedures for  
 198 depositing fees and filing documents by electronic means  
 199 provided such procedures provide the office with the information  
 200 required by this section. The commission or office may require  
 201 each applicant for a commercial collection agency registration  
 202 to provide:

203 (a) A nonrefundable application fee in the amount of \$900.  
 204 All amounts collected shall be deposited to the credit of the  
 205 Regulatory Trust Fund of the office.

206 (b) The name of the applicant, any other names under which  
 207 the applicant conducts business, and the address of the  
 208 applicant's principal place of business and each office in this  
 209 state.

210 (c) The applicant's form and place of organization and, if  
 211 the applicant is a corporation, a copy of the articles of  
 212 incorporation and amendments to such articles, if a partnership,  
 213 a copy of the partnership agreement or, if limited liability  
 214 company, a copy of the articles of organization.

215 (d) Documents demonstrating that the bonding requirements  
 216 specified in s. 559.546 have been satisfied.

217 (e) Information and documentation necessary to make a  
 218 determination of the applicant's eligibility for registration.

219 (4) The applicant shall also provide information as the  
 220 office may require about any partner, officer, or director of  
 221 the applicant, any person having the same or substantially  
 222 similar status or performing substantially similar functions, or  
 223 any person directly or indirectly controlling the applicant. For  
 224 purposes of this section, the term "directly or indirectly



225 controlling the applicant" means possessing the power to direct  
 226 or to cause the direction of the management or policies of a  
 227 company, whether through ownership of stock or securities, by  
 228 contract or otherwise. Any individual or company that directly  
 229 or indirectly has the right to vote 25 percent or more of the  
 230 voting stock or securities of a company or is entitled to 25  
 231 percent or more of its profits is presumed to control that  
 232 company. The office may require information about any such  
 233 applicant or person, including:

234 (a) His or her full name, current address, current  
 235 telephone number, date of birth, or social security number or  
 236 the federal identification number of any corporate owner.

237 (b) His or her previous 10 year educational or employment  
 238 history.

239 (c) Any adverse decision, finding, injunction, suspension,  
 240 prohibition, revocation, denial, or judgment by any court of  
 241 competent jurisdiction or an administrative order by an  
 242 administrative law judge, or by any state or federal agency or  
 243 any business, professional, or occupational association  
 244 involving a violation of any law, rule, or regulation relating  
 245 to any business or professional licensing.

246 (d) His or her commission of any acts which would be  
 247 grounds for denial of an application under s. 559.545(10).

248 (5) An initial application is deemed received for purposes  
 249 of s. 120.60 upon receipt of the completed application form  
 250 prescribed by commission rule, the nonrefundable application fee  
 251 of \$900, and any other fee prescribed by law.

252       (6) Upon the filing of an application for registration and  
253 payment of all applicable fees, the office shall investigate the  
254 applicant. If the office determines that registration should be  
255 granted, the office shall register the applicant for a period  
256 not to exceed 1 year.

257       (7) The registration of each commercial collection agency  
258 expires on December 31 of the year in which the registration  
259 became effective unless the registrant has renewed its  
260 registration on or before that date. Registration may be renewed  
261 as the commission may require by rule, together with payment of  
262 the \$450 nonrefundable renewal fee and the payment of any amount  
263 lawfully due and owing to the office pursuant to any order of  
264 the office or pursuant to any agreement with the office. A  
265 commercial collection agency that has not renewed its  
266 registration by the time the registration period expires may  
267 request reactivation of its registration. The registrant shall  
268 file its request with the office on or before January 31 of the  
269 year following the year of expiration. The request must contain  
270 any information the office requires, together with the  
271 registration fee required in this section, and a nonrefundable  
272 reactivation fee in the amount of \$250. Any reactivation of  
273 registration granted by the office during the month of January  
274 is deemed effective retroactive to January 1 of that year. Any  
275 registrant that engages in business as a commercial collection  
276 agency after its registration has expired violates subsection  
277 (1), punishable as provided by ss. 559.548(1) and 559.5477(6).

278       (8) If the information contained in any application or any  
279 amendment to such application has changed, the registrant shall

280 file an amendment on the forms prescribed by the commission  
 281 correcting such information within 30 days after the change.

282 (9) A registration under this part is not transferable or  
 283 assignable unless accomplished pursuant to this subsection.

284 (a) Changes in registration occasioned by changes in  
 285 personnel of a partnership or in the principals, copartners,  
 286 officers, or directors of any registrant or by changes of any  
 287 material fact shall be reported by written amendment in such  
 288 form and at such time as the commission may specify by rule. In  
 289 any case in which a person or a group of persons, directly or  
 290 indirectly or acting by or through one or more persons, proposes  
 291 to purchase or acquire a controlling interest in a registrant,  
 292 such person or group shall submit an initial application for  
 293 registration as a commercial collection agency prior to such  
 294 purchase or acquisition at such time and in such form as the  
 295 commission may prescribe by rule.

296 (b) The commission shall adopt rules providing for waiver  
 297 of the application required by this subsection when control of a  
 298 registrant is to be acquired by another registrant under this  
 299 chapter or when the application is otherwise unnecessary in the  
 300 public interest.

301 (10) The office may deny registration if the applicant,  
 302 any principal of the applicant, or any person having control of  
 303 the applicant:

304 (a) Has committed any violation of s. 559.72;

305 (b) Is the subject of a pending criminal prosecution or  
 306 governmental enforcement action, in any jurisdiction, until the  
 307 conclusion of such criminal prosecution or enforcement action;

308        (c) Is currently subject to a pending enforcement action  
309 by any federal authority for violations of the Fair Debt  
310 Collection Practices Act or the Federal Trade Commission Act;

311        (d) Has been found guilty of, regardless of adjudication,  
312 or has entered a plea of nolo contendere or guilty to, any  
313 offense involving fraud, dishonest dealing, or moral turpitude;

314        (e) Has been found guilty of, regardless of adjudication,  
315 or has entered a plea of nolo contendere or guilty to, any  
316 felony;

317        (f) Has had entered against him or her, or any business  
318 for which he or she was directly or indirectly a controlling  
319 person in the business or controlled the business, an  
320 injunction, a temporary restraining order, or a final judgment  
321 or order, including a stipulated judgment or order, an assurance  
322 of voluntary compliance, or any similar document, in any civil  
323 or administrative action involving racketeering, fraud, theft,  
324 embezzlement, fraudulent conversion, or misappropriation of  
325 property or the use of any untrue, deceptive, or misleading  
326 representation in an attempt to sell or dispose of real or  
327 personal property or the use of any unfair, unlawful, or  
328 deceptive trade practice, whether or not there is any litigation  
329 pending against the applicant;

330        (g) Is subject to or was directly or indirectly a  
331 controlling person in the business, or controlled the business,  
332 with any company that is, or ever has been, subject to any  
333 injunction, temporary restraining order, including a stipulated  
334 judgment or order, an assurance of voluntary compliance, or any  
335 similar document, or any restrictive court order relating to

336 business activity as the result of any action brought by a  
337 governmental agency, including any action affecting any license  
338 to do business or practice an occupation or trade;

339 (h) Falsified or willfully omitted any material  
340 information asked for in any application, document, or record  
341 required to be submitted under this part or the rules of the  
342 commission;

343 (i) Made a material false statement of fact in an  
344 application for registration or in response to any request or  
345 investigation by the office; or

346 (j) Has been the subject of any adverse decision, finding,  
347 injunction, suspension, prohibition, revocation, denial, or  
348 judgment by any court of competent jurisdiction or an  
349 administrative order by an administrative law judge, any state  
350 or federal agency, or any business, professional, or  
351 occupational association involving a violation of any law, rule,  
352 or regulation relating to business or professional licensing.

353 Section 3. Section 559.546, Florida Statutes, is amended  
354 to read:

355 (Substantial rewording of section. See s.  
356 559.546, Florida Statutes, for current text.)

357 559.546 Surety bond.--

358 (1) Before the office may issue a registration, the  
359 applicant must provide to the office a corporate surety bond  
360 issued by a bonding company or insurance company authorized to  
361 do business in this state.

362 (2) The corporate surety bond shall be in the amount of  
363 \$50,000, paid for and issued for the benefit of any credit

364 grantor against the registrant to secure the faithful  
 365 performance of the obligations of the registrant with respect to  
 366 the receipt, handling, and payment of funds collected by the  
 367 registrant. (3) If multiple claims are filed against the  
 368 surety on any bond in excess of the amount of the bond, the  
 369 surety may pay the full amount of the bond to the office and is  
 370 not further liable under the bond. The office shall hold the  
 371 funds for distribution to claimants and pay to each claimant the  
 372 pro rata share of each valid claim made against the funds within  
 373 6 months after the date of the filing of the first claim against  
 374 the surety.

375 (4) A corporate surety bond filed with the office for  
 376 purposes of compliance with this section may not be canceled by  
 377 the registrant or the corporate surety except upon written  
 378 notice to the office by registered or certified mail with return  
 379 receipt requested. A cancellation shall not take effect less  
 380 than 30 days after receipt by the office of such written notice.

381 (5) The corporate surety must, within 10 days after the  
 382 surety pays any claim to any claimant, give written notice to  
 383 the office by registered or certified mail of such payment with  
 384 details sufficient to identify the claimant and the claim or  
 385 judgment so paid.

386 (6) Whenever the principal sum of such bond is reduced by  
 387 one or more recoveries or payments, the registrant must furnish  
 388 a new or additional bond so the total or aggregate principal sum  
 389 of such bonds equals the sum required by this section.  
 390 Alternatively, a registrant may furnish an endorsement executed

391 by the corporate surety reinstating the bond to the required  
392 principal sum.

393 Section 4. Sections 559.5471, 559.5473, 559.5474,  
394 559.5475, 559.5476, 559.5477, and 559.5479, Florida Statutes,  
395 are created to read:

396 559.5471 Powers and duties of the Office of Financial  
397 Regulation.--

398 (1) Compliance with this part shall be enforced by the  
399 office, except when enforcement is specifically committed to  
400 another agency.

401 (2) The office may conduct an investigation or examination  
402 of any person, within or outside this state, which the office  
403 believes is necessary in order to determine whether a person has  
404 violated this chapter or the rules adopted by the commission.  
405 The office shall provide no less than 15 days advance notice of  
406 any examination or investigation of a commercial collection  
407 agency. However, if the office suspects that the commercial  
408 collection agency has violated any provision of this code or any  
409 criminal laws of this state or of the United states or is  
410 engaging in an unsafe and unsound practice, the office may, at  
411 any time without advance notice, conduct an examination or  
412 investigation of all affairs, activities, transactions,  
413 accounts, business records, and assets of any commercial  
414 collection agency for the protection of the public.

415 (3) The commission may adopt rules under ss. 120.536(1)  
416 and 120.54 to implement and administer this part.

417 (4) The commission may adopt a rule:

418 (a) Requiring electronic submission of any form, document,  
 419 or fee required by this part, provided the rule reasonably  
 420 accommodates a person with a technological or financial  
 421 hardship.

422 (b) Setting forth the criteria and procedures for  
 423 obtaining an exemption due to a technological or financial  
 424 hardship.

425 (c) Accepting certification of compliance with the  
 426 requirements of this part in lieu of requiring submission of  
 427 specified documents.

428 (5) All fees, charges, and fines collected by the office  
 429 under this part shall be deposited to the credit of the  
 430 Regulatory Trust Fund of the office.

431 (6) The office may:

432 (a) Issue, revoke, quash, or modify and serve subpoenas to  
 433 compel the attendance of witnesses and subpoenas duces tecum to  
 434 compel the production of all books, accounts, records, and other  
 435 documents and materials relevant to an examination or  
 436 investigation. The office may exercise these powers even if the  
 437 subject of the investigation or examination is exempt from  
 438 registration.

439 (b) Administer oaths and affirmations to any person.

440 (c) Take, or cause to be taken, testimony and depositions.

441 (7)(a) In the event of noncompliance with a subpoena or  
 442 subpoena duces tecum the office issued or caused to be issued,  
 443 the office may petition a court of competent jurisdiction in the  
 444 county in which the person subpoenaed resides or has her, his,  
 445 or its principal place of business for an order requiring the



446 person to appear and testify and to produce the books, accounts,  
447 records, and other documents that are specified in the subpoena  
448 duces tecum.

449 (b) A copy of the petition shall be served upon the person  
450 subpoenaed by any person authorized by this section to serve  
451 subpoenas, who shall make and file with the court an affidavit  
452 showing the time, place, and date of service.

453 (c) At a hearing on the petition to enforce compliance  
454 with a subpoena, the person subpoenaed, or any person whose  
455 interest will be substantially affected by the investigation,  
456 examination, or subpoena, may appear and object to the subpoena  
457 and the granting of the petition. The court may make any order  
458 that justice requires in order to protect a party or other  
459 person and her or his personal and property rights, including,  
460 but not limited to, protection from annoyance, embarrassment,  
461 oppression, undue burden, or expense.

462 (d) Failure to comply with an order granting, in whole or  
463 in part, a petition to enforce a subpoena is a contempt of the  
464 court.

465 (8) Witnesses are entitled to the same fees and mileage to  
466 which they would be entitled by law for attending as witnesses  
467 in circuit court, except that fees or mileage may not be allowed  
468 for testimony of a person taken at the person's principal office  
469 or residence.

470 (9) Reasonable and necessary costs incurred by the office  
471 during an investigation may be assessed against any debt  
472 collector on the basis of actual costs incurred. Assessed  
473 expenses may include, but are not limited to, expenses for

474 interpreters; expenses for communications; expenses for legal  
 475 representation; expenses for economic, legal, or other research;  
 476 analysis and testimony; and fees and expenses for witnesses. The  
 477 failure to reimburse the office for its reasonable and necessary  
 478 costs is a reason to deny a registrant's application or to  
 479 revoke the prior approval of an application.

480 559.5473 Injunction to restrain violations; receivers.--

481 (1) The office may bring an action on behalf of the state  
 482 to enjoin any person who has violated, or is about to violate,  
 483 this part, any rule of the commission, or order of the office  
 484 issued under this part.

485 (2) In an injunctive proceeding, the court may issue a  
 486 subpoena requiring the attendance of any witness or a subpoena  
 487 duces tecum requiring the production of any book, account,  
 488 record, or other documents and materials relevant to the pending  
 489 case.

490 (3)(a) In addition to any procedure provided by law for  
 491 enforcing a temporary restraining order or a temporary or  
 492 permanent injunction, the court may, upon application of the  
 493 office, impound the property, assets, and business of the  
 494 registrant, including, but not limited to, the books, records,  
 495 documents, and papers of the registrant. The court may appoint a  
 496 receiver to administer the property. The receiver, when  
 497 appointed and qualified, has the powers and duties that are  
 498 conferred upon the receiver by the court.

499 (b) After appointing a receiver, the court may issue an  
 500 order staying all pending suits and enjoining any further  
 501 litigation affecting the receiver's custody or possession of the

502 property, assets, and business and the court, with the consent  
 503 of the chief judge of the circuit, may require that all suits be  
 504 assigned to the circuit judge who appointed the receiver.

505 559.5474 Cease and desist orders; refund orders.--

506 (1) The office may issue and serve upon a person an order  
 507 to cease and desist and to take corrective action whenever the  
 508 office has reason to believe that a person is violating, has  
 509 violated, or is about to violate this part, any rule or order of  
 510 the office issued under this part, or any written agreement  
 511 between the commercial collection agency and the office.

512 Procedural matters relating to the issuance and enforcement of a  
 513 cease and desist order are governed by chapter 120.

514 (2) The office may seek an order of restitution from a  
 515 court of competent jurisdiction for collected funds due to  
 516 creditors or any sum collected from a debtor without valid proof  
 517 of debt.

518 559.5475 Evidence; examiner's worksheets, investigative  
 519 reports, other related documents.--An official written report,  
 520 sworn complaint, worksheet, or other related paper, or a  
 521 certified copy thereof, compiled, prepared, drafted, or  
 522 otherwise made by the financial examiner is admissible into  
 523 evidence if the financial examiner is available for cross-  
 524 examination, authenticates the worksheet, and testifies that the  
 525 report, worksheet, or related document was prepared as a result  
 526 of an examination of the books and records of a registrant or  
 527 other person conducted under the authority of this part.

528 559.5476 Books, accounts, and records; maintenance;  
 529 examinations by the office.--

530       (1) Each registrant shall maintain, at its principal place  
 531 of business designated on its registration, all books, accounts,  
 532 records, and documents necessary to determine the registrant's  
 533 compliance with this part.

534       (2) The office may authorize maintenance of records at a  
 535 location other than a principal place of business. The office  
 536 may require books, accounts, and records to be produced and  
 537 available at a reasonable and convenient location in this state.

538       (3) All books, accounts, records, documents, and receipts  
 539 for payments to a registrant by a debtor, and payments made to a  
 540 creditor by a registrant, shall be preserved and kept available  
 541 for examination by the office for 3 years after the date of  
 542 original entry. The commission shall adopt requirements by rule  
 543 for maintaining the books, accounts, records, and documents  
 544 retained by the registrant and for destroying the records.

545       (4) The commission shall designate by rule the minimum  
 546 information that must be contained in the registrant's books,  
 547 accounts, records, and documents to enable the office to  
 548 determine a registrant's compliance with this part.

549       559.5477 Administrative remedies.--

550       (1) The office may revoke or suspend the registration of a  
 551 registrant under this part who:

552       (a) Has been found guilty of, regardless of adjudication,  
 553 or has entered a plea of nolo contendere or guilty to, any crime  
 554 involving fraud, dishonest dealing, or moral turpitude;

555       (b) Has had a final judgment entered against the  
 556 registrant in a civil action upon the grounds of fraud,  
 557 embezzlement, misrepresentation, or deceit;

558        (c) Has had any business, professional, or occupational  
559 license or registration suspended, revoked, or otherwise acted  
560 against in any jurisdiction;

561        (d) Fails to maintain the surety bond required pursuant to  
562 s. 559.546;

563        (e) Fails to maintain books and records as required by s.  
564 559.5476;

565        (f) Violates any provision of this part, any rule or order  
566 adopted pursuant to this part, or any written agreement entered  
567 into with the office;

568        (g) Paid for a registration with a check or electronic  
569 transmission of funds which failed to clear the registrant's  
570 financial institution;

571        (h) Falsified or willfully omitted any material  
572 information asked for in any application, document, or record  
573 required to be submitted under this part or the rules of the  
574 commission;

575        (i) Made a material false statement of fact in an  
576 application for registration or in response to any request or  
577 investigation by the office; or

578        (j) Employs a person, who directly or indirectly controls  
579 the applicant as defined in s. 559.545(4) that is subject to an  
580 action, or commits an act, specified by paragraph (a), paragraph  
581 (b), paragraph (c), paragraph (f), paragraph (h), or paragraph  
582 (i).

583        (2) A registrant may request termination of its  
584 registration by delivering written notice of its proposed  
585 termination to the office. However, the delivery of the

586 termination notice does not affect any civil or criminal  
587 liability of the registrant or the authority of the office to  
588 enforce this part.

589 (3) The office may deny a request to terminate a  
590 registration or to withdraw an application for registration if  
591 the office believes that the registrant has committed an act  
592 that would be grounds for denial, suspension, or revocation  
593 under this part.

594 (4) Final action by the office to revoke or suspend the  
595 registration of a registrant is subject to review according to  
596 chapter 120 in the same manner as revocation of a license.

597 (5) The office may impose an administrative fine of up to  
598 \$1,000 per violation of this section or s. 559.545, s. 559.546,  
599 or s. 559.5476 against an offending registrant as an  
600 administrative sanction. Final action by the office to impose an  
601 administrative fine is subject to review in accordance with ss.  
602 120.569 and 120.57.

603 (6) Notwithstanding any other provision of this section,  
604 the office may impose a fine not to exceed \$1,000 per day for  
605 each day that a person violates the code by engaging in the  
606 business of a commercial collection agency without being  
607 registered.

608 (7) Any administrative fine imposed under this part is  
609 payable to the office. The office shall maintain an appropriate  
610 record and deposit the fine into the Regulatory Trust Fund of  
611 the office.

612 (8) An administrative action by the office to impose  
613 revocation, suspension, or a fine must be brought within 5 years

614 after the date of the last violation upon which the action is  
 615 founded.

616 (9) The remedies under this part are in addition to  
 617 remedies otherwise available for the same conduct under state or  
 618 local law.

619 559.5479 Administrative guidelines.--In imposing any  
 620 administrative remedy or penalty provided for in this part, the  
 621 office shall take into account the appropriateness of the  
 622 penalty with respect to the size of the financial resources and  
 623 good faith of the person charged, the gravity of the violation,  
 624 the history of previous violations, and such other matters as  
 625 justice may require.

626 Section 5. Subsections (1), (7), and (8) of section  
 627 559.55, Florida Statutes, are amended, and subsections (10),  
 628 (11), and (12) are added to said section, to read:

629 559.55 Definitions.--The following terms shall, unless the  
 630 context otherwise indicates, have the following meanings for the  
 631 purpose of this part:

632 (1) "Debt" or "consumer debt" means:

633 (a) Any obligation or alleged obligation of a consumer to  
 634 pay money arising out of a transaction in which the money,  
 635 property, insurance, or services which are the subject of the  
 636 transaction are primarily for personal, family, or household  
 637 purposes, whether or not such obligation has been reduced to  
 638 judgment; or

639 (b) Any unsatisfied obligation for the payment of money  
 640 arising out of a legal order for child support.

641 (7) "Consumer collection agency" means any debt collector  
 642 or business entity engaged in the business of soliciting  
 643 consumer debts for collection or of collecting consumer debts,  
 644 which debt collector or business is not expressly exempted as  
 645 set forth in s. 559.553(1)~~(4)~~.

646 (8) "Out-of-state consumer debt collector" means any  
 647 person whose business activities in this state involve both  
 648 collecting or attempting to collect consumer debt from debtors  
 649 located in this state by means of interstate communication,  
 650 including telephone, mail, or facsimile transmission,  
 651 originating from outside this state. The term "out-of-state  
 652 consumer debt collector" does not include a person who solicits  
 653 and ~~soliciting~~ consumer debt accounts for collection from  
 654 creditors who have a business presence in this state. For  
 655 purposes of this subsection, a creditor has a business presence  
 656 in this state if ~~either~~ the creditor or an affiliate or  
 657 subsidiary of the creditor has an office or resides in this  
 658 state.

659 (10) "Credit grantor" means any person who offers or  
 660 extends credit creating a debt or to whom a debt is owed, but  
 661 such term does not include any person to the extent that person  
 662 receives an assignment or transfer of a debt in default solely  
 663 for the purpose of facilitating collection of such debt for  
 664 another.

665 (11) "Federal Trade Commission Act" means the federal  
 666 legislation regulating unfair or deceptive practices or acts, as  
 667 set forth in 15 U.S.C. ss. 41 et seq.



668           (12) "Principal of a registrant or applicant" means any  
 669 owner of the applicant or registrant if a partnership or sole  
 670 proprietorship, the corporate officers, the corporate directors  
 671 other than directors of a not-for-profit corporation organized  
 672 under chapter 617, or the resident agent in this state if a  
 673 corporation is the applicant or registrant.

674           Section 6. Section 559.552, Florida Statutes, is amended  
 675 to read:

676           559.552 Relationship of state and federal law.--

677           (1) Any violation of the federal Fair Debt Collection  
 678 Practices Act constitutes a prohibited practice under s. 559.72.

679           (2) Nothing in This part does not shall be construed to  
 680 limit or restrict the continued applicability of the federal  
 681 Fair Debt Collection Practices Act to consumer collection  
 682 practices in this state. This part is in addition to the  
 683 requirements and regulations of the federal act. In construing  
 684 this part, due consideration and great weight shall be given to  
 685 interpretations of the Federal Trade Commission Act and the Fair  
 686 Debt Collection Practices Act by the Federal Trade Commission.  
 687 In the event of any inconsistency between any provision of this  
 688 part and any provision of the federal act, the provision that  
 689 ~~which~~ is more protective of the consumer or debtor shall  
 690 prevail.

691           Section 7. Section 559.553, Florida Statutes, is amended  
 692 to read:

693           559.553 ~~Registration of consumer collection agencies~~  
 694 ~~required;~~ Exemptions.--

695           ~~(1) After January 1, 1994, no person shall engage in~~  
 696 ~~business in this state as a consumer collection agency or~~  
 697 ~~continue to do business in this state as a consumer collection~~  
 698 ~~agency without first registering in accordance with this part,~~  
 699 ~~and thereafter maintaining a valid registration.~~

700           ~~(2) Each consumer collection agency doing business in this~~  
 701 ~~state shall register with the office and renew such registration~~  
 702 ~~annually as set forth in s. 559.555.~~

703           ~~(3) A prospective registrant shall be entitled to be~~  
 704 ~~registered when registration information is complete on its face~~  
 705 ~~and the applicable registration fee has been paid; however, the~~  
 706 ~~office may reject a registration submitted by a prospective~~  
 707 ~~registrant if the registrant or any principal of the registrant~~  
 708 ~~previously has held any professional license or state~~  
 709 ~~registration which was the subject of any suspension or~~  
 710 ~~revocation which has not been explained by the prospective~~  
 711 ~~registrant to the satisfaction of the office either in the~~  
 712 ~~registration information submitted initially or upon the~~  
 713 ~~subsequent written request of the office. In the event that an~~  
 714 ~~attempted registration is rejected by the office the prospective~~  
 715 ~~registrant shall be informed of the basis for rejection.~~

716           ~~(4) The registration requirements of s. 559.555 This~~  
 717 ~~section shall not apply to:~~

718           ~~(1)(a) Any credit grantor original creditor.~~

719           ~~(2)(b) Any member of The Florida Bar, unless the person is~~  
 720 ~~primarily engaged in the collection of consumer debts.~~

721           ~~"Primarily engaged in the collection of consumer debts" means~~  
 722 ~~that more than one-half of the person's income arises from the~~

723 business of soliciting consumer claims for collection or  
 724 collecting consumer claims.

725 (3)(e) Any financial institution authorized to do business  
 726 in this state or ~~and~~ any wholly owned subsidiary or ~~and~~  
 727 affiliate thereof.

728 (4)(d) Any licensed real estate broker.

729 (5)(e) Any insurance company authorized to do business in  
 730 this state.

731 (6)(f) Any consumer finance company or ~~and~~ any wholly  
 732 owned subsidiary or ~~and~~ affiliate thereof.

733 (7)(g) Any person licensed pursuant to chapter 520.

734 (8)(h) Any out-of-state consumer debt collector ~~who does~~  
 735 ~~not solicit consumer debt accounts for collection from credit~~  
 736 ~~grantors who have a business presence in this state.~~

737 (9)(i) Any FDIC-insured institution or subsidiary or  
 738 affiliate thereof.

739 ~~(5) Any out-of-state consumer debt collector as defined in~~  
 740 ~~s. 559.55(8) who is not exempt from registration by application~~  
 741 ~~of subsection (4) and who fails to register in accordance with~~  
 742 ~~this part shall be subject to an enforcement action by the state~~  
 743 ~~as specified in s. 559.565.~~

744 Section 8. Section 559.555, Florida Statutes, is amended  
 745 to read:

746 (Substantial rewording of section. See s.

747 559.555, Florida Statutes, for current text.)

748 559.555 Registration of consumer collection agencies;

749 procedure.--

750           (1) A person may not engage in business in this state as a  
 751 consumer collection agency, as defined in this part, or continue  
 752 to do business in this state as a consumer collection agency  
 753 unless the person is registered with the office according to  
 754 this part and thereafter maintains the registration.

755           (2) A registration is not valid for any consumer  
 756 collection agency transacting business at any place other than  
 757 that designated in the registration unless the office is first  
 758 notified in advance of any change of location.

759           (3) A person who applies for registration as a consumer  
 760 collection agency in compliance with this part must do so on  
 761 forms adopted by the commission and furnished by the office. The  
 762 commission may establish by rule procedures for depositing fees  
 763 and filing documents by electronic means provided such  
 764 procedures provide the office with the information required by  
 765 this section. The commission or office may require each  
 766 applicant for a consumer collection agency registration to  
 767 provide:

768           (a) A nonrefundable application fee in the amount of \$900.  
 769 All amounts collected shall be deposited to the credit of the  
 770 Regulatory Trust Fund of the office.

771           (b) The name of the applicant, any other names under which  
 772 the applicant conducts business, and the address of the  
 773 applicant's principal place of business and each office in this  
 774 state.

775           (c) The applicant's form and place of organization and, if  
 776 the applicant is a corporation, a copy of the articles of  
 777 incorporation and amendments to such articles, if a partnership,

778 a copy of the partnership agreement, or, if limited liability  
779 company, a copy of the articles of organization.

780 (d) Documents demonstrating that the bonding requirements  
781 specified in s. 559.556 have been satisfied.

782 (e) Information and documentation necessary to make a  
783 determination of the applicant's eligibility for registration.

784 (4) The applicant shall also provide information as the  
785 office may require about any partner, officer, or director of  
786 the applicant, any person having the same or substantially  
787 similar status or performing substantially similar functions, or  
788 any person directly or indirectly controlling the applicant. For  
789 purposes of this subsection, the term "directly or indirectly  
790 controlling the applicant" means possessing the power to direct  
791 or to cause the direction of the management or policies of a  
792 company, whether through ownership of stock or securities, by  
793 contract, or otherwise. Any individual or company that directly  
794 or indirectly has the right to vote 25 percent or more of the  
795 voting stock or securities of a company or is entitled to 25  
796 percent or more of its profits is presumed to control that  
797 company. The office may require information about any such  
798 applicant or person, including:

799 (a) His or her full name, current address, current  
800 telephone number, date of birth, social security number, or  
801 federal identification number of any corporate owner.

802 (b) His or her previous 10-year educational or employment  
803 history.

804 (c) Any adverse decision, finding, injunction, suspension,  
805 prohibition, revocation, denial, or judgment by any court of

806 competent jurisdiction or an administrative order by an  
807 administrative law judge, by any state or federal agency, or by  
808 any business, professional, or occupational association  
809 involving a violation of any law, rule, or regulation relating  
810 to business or professional licensing.

811 (d) His or her commission of any acts which would be  
812 grounds for denial of an application under subsection (10).

813 (5) An initial application is deemed received for purposes  
814 of s. 120.60 upon receipt of the completed application form  
815 prescribed by commission rule, the nonrefundable application fee  
816 of \$900, and any other fee prescribed by law.

817 (6) Upon the filing of an application for registration and  
818 payment of all applicable fees, the office shall investigate the  
819 applicant. If the office determines that registration should be  
820 granted, it shall register the applicant for a period not to  
821 exceed 1 year.

822 (7) The registration of each consumer collection agency  
823 will expire on December 31 of the year in which the registration  
824 became effective unless the registrant has renewed its  
825 registration on or before that date. A registration may be  
826 renewed as the commission may require by rule, together with  
827 payment of the \$450 nonrefundable renewal fee and the payment of  
828 any amount lawfully due and owing to the office pursuant to any  
829 order of the office or pursuant to any agreement with the  
830 office. A consumer collection agency that has not renewed its  
831 registration by the time the registration period expires may  
832 request reactivation of its registration. The registrant must  
833 file its request with the office on or before January 31 of the

834 year following the year of expiration. The request must contain  
835 any information the office requires, together with the  
836 registration fee required in this section and a nonrefundable  
837 reactivation fee in the amount of \$250. Any reactivation of  
838 registration granted by the office during the month of January  
839 is deemed effective retroactive to January 1 of that year. Any  
840 registrant that engages in business as a consumer collection  
841 agency after its registration has expired violates subsection  
842 (1), punishable as provided by ss. 559.785(1) and 559.730(6).

843 (8) If the information contained in any application or any  
844 amendment to the application has changed, the registrant shall  
845 file an amendment on the forms prescribed by the commission  
846 correcting such information within 30 days after the change.

847 (9) A registration under this part is not transferable or  
848 assignable unless accomplished pursuant to this subsection.

849 (a) Changes in registration occasioned by changes in  
850 personnel of a partnership or in the principals, copartners,  
851 officers, or directors of any registrant or by changes of any  
852 material fact shall be reported by written amendment in such  
853 form and at such time as the commission may specify by rule. In  
854 any case in which a person or a group of persons, directly or  
855 indirectly or acting by or through one or more persons, proposes  
856 to purchase or acquire a controlling interest in a registrant,  
857 such person or group shall submit an initial application for  
858 registration as a consumer collection agency prior to such  
859 purchase or acquisition at such time and in such form as the  
860 commission may prescribe by rule.

861       (b) The commission shall adopt rules providing for waiver  
 862 of the application required by this subsection where control of  
 863 a registrant is to be acquired by another registrant under this  
 864 chapter or where the application is otherwise unnecessary in the  
 865 public interest.

866       (10) The office may deny registration if the applicant,  
 867 any principal of the applicant, or any person having control of  
 868 the applicant:

869       (a) Has committed any violation of s. 559.72;

870       (b) Is the subject of a pending criminal prosecution or  
 871 governmental enforcement action, in any jurisdiction, until the  
 872 conclusion of such criminal prosecution or enforcement action;

873       (c) Is currently subject to a pending enforcement action  
 874 by any federal authority for violations of the Fair Debt  
 875 Collection Practices Act or the Federal Trade Commission Act;

876       (d) Has been found guilty of, regardless of adjudication,  
 877 or has entered a plea of nolo contendere or guilty to, any  
 878 offense involving fraud, dishonest dealing, or moral turpitude;

879       (e) Has been found guilty of, regardless of adjudication,  
 880 or has entered a plea of nolo contendere or guilty to, any  
 881 felony;

882       (f) Has had entered against him or her, or any business  
 883 for which he or she was directly or indirectly a controlling  
 884 person in the business or controlled the business, an  
 885 injunction, a temporary restraining order, or a final judgment  
 886 or order, including a stipulated judgment or order, an assurance  
 887 of voluntary compliance, or any similar document, in any civil  
 888 or administrative action involving racketeering, fraud, theft,



889 embezzlement, fraudulent conversion, or misappropriation of  
 890 property or the use of any untrue, deceptive, or misleading  
 891 representation in an attempt to sell or dispose of real or  
 892 personal property or the use of any unfair, unlawful, or  
 893 deceptive trade practice, whether or not there is any litigation  
 894 pending against the applicant;

895 (g) Is subject to or was directly or indirectly a  
 896 controlling person in the business, or controlled the business,  
 897 with any company that is, or ever has been, subject to any  
 898 injunction, temporary restraining order, including a stipulated  
 899 judgment or order, an assurance of voluntary compliance or any  
 900 similar document, or any restrictive court order relating to  
 901 business activity as the result of any action brought by a  
 902 governmental agency, including any action affecting any license  
 903 to do business or practice an occupation or trade;

904 (h) Falsified or willfully omitted any material  
 905 information asked for in any application, document, or record  
 906 required to be submitted under this part or the rules of the  
 907 commission;

908 (i) Made a material false statement of fact in an  
 909 application for registration or in response to any request or  
 910 investigation by the office, the Department of Legal Affairs, or  
 911 the state attorney; or

912 (j) Has been the subject of any adverse decision, finding,  
 913 injunction, suspension, prohibition, revocation, denial, or  
 914 judgment by any court of competent jurisdiction or an  
 915 administrative order by an administrative law judge, by any  
 916 state or federal agency, or by any business, professional, or

917 occupational association involving a violation of any law, rule,  
 918 or regulation relating to business or professional licensing.

919 Section 9. Section 559.556, Florida Statutes, is created  
 920 to read:

921 559.556 Surety bond.--

922 (1) Before the office may issue a registration, the  
 923 applicant must provide to the office a corporate surety bond,  
 924 issued by a bonding company or insurance company authorized to  
 925 do business in this state.

926 (2) The corporate surety bond shall be in the amount of  
 927 \$25,000, paid for and issued for the benefit of any credit  
 928 grantor against the registrant to secure the faithful  
 929 performance of the obligations of the registrant with respect to  
 930 the receipt, handling, and payment of funds collected by the  
 931 registrant.

932 (3) If multiple claims are filed against the surety on any  
 933 bond in excess of the amount of the bond, the surety may pay the  
 934 full amount of the bond to the office and is not further liable  
 935 under the bond. The office shall hold the funds for distribution  
 936 to claimants and pay to each claimant the pro rata share of each  
 937 valid claim made against the funds within 6 months after the  
 938 date of the filing of the first claim against the surety.

939 (4) A corporate surety bond filed with the office for  
 940 purposes of compliance with this section may not be cancelled by  
 941 the registrant or the corporate surety except upon written  
 942 notice to the office by registered or certified mail with return  
 943 receipt requested. A cancellation shall not take effect less  
 944 than 30 days after receipt by the office of such written notice.

945       (5) The corporate surety shall, within 10 days after the  
 946 surety pays any claim to a claimant, give written notice to the  
 947 office by registered or certified mail of such payment with  
 948 details sufficient to identify the claimant and the claim or  
 949 judgment so paid.

950       (6) Whenever the principal sum of such bond is reduced by  
 951 one or more recoveries or payments, the registrant shall furnish  
 952 a new or additional bond so that the total or aggregate  
 953 principal sum of such bonds equals the sum required by this  
 954 section. Alternatively, a registrant may furnish an endorsement  
 955 executed by the corporate surety reinstating the bond to the  
 956 required principal sum.

957       Section 10. Section 559.72, Florida Statutes, is amended  
 958 to read:

959       559.72 Standards of conduct ~~Prohibited practices~~  
 960 generally.--

961       (1) In collecting consumer debts, a ~~no~~ person may not  
 962 ~~shall~~:

963       (a)(1) Simulate in any manner a law enforcement officer or  
 964 a representative of any governmental agency;

965       (b)(2) Use or threaten force, ~~or~~ violence, or any other  
 966 means to harm the physical person, property, or reputation of  
 967 any person;

968       (c)(3) Tell a debtor who disputes a consumer debt that she  
 969 or he or any person employing her or him will disclose to  
 970 another, orally or in writing, directly or indirectly,  
 971 information affecting the debtor's reputation for credit  
 972 worthiness without also informing the debtor that the existence

973 of the dispute will also be disclosed as required by paragraph  
974 (f) ~~subsection (6)~~;

975 (d)~~(4)~~ Communicate or threaten to communicate with a  
976 debtor's employer prior to obtaining final judgment against the  
977 debtor, unless the debtor gives her or his permission in writing  
978 to contact her or his employer or acknowledges in writing the  
979 existence of the debt after the debt has been placed for  
980 collection, but this shall not prohibit a person from telling  
981 the debtor that her or his employer will be contacted if a final  
982 judgment is obtained;

983 (e)~~(5)~~ Disclose to a person other than the debtor or her  
984 or his family information affecting the debtor's reputation,  
985 whether or not for credit worthiness, with knowledge or reason  
986 to know that the other person does not have a legitimate  
987 business need for the information or that the information is  
988 false;

989 (f)~~(6)~~ Disclose information concerning the existence of a  
990 debt known to be reasonably disputed by the debtor without  
991 disclosing that fact. If a disclosure is made prior to such  
992 reasonable dispute having been asserted and written notice is  
993 received from the debtor that any part of the debt is disputed  
994 and if such dispute is reasonable, the person who made the  
995 original disclosure shall reveal upon the request of the debtor  
996 within 30 days the details of the dispute to each person to whom  
997 disclosure of the debt without notice of the dispute was made  
998 within the preceding 90 days;

999 (g)~~(7)~~ Willfully communicate with the debtor or any member  
1000 of her or his family with such frequency as can reasonably be

1001 expected to harass the debtor or her or his family, or willfully  
 1002 engage in other conduct which can reasonably be expected to  
 1003 abuse or harass the debtor or any member of her or his family;

1004 (h)~~(8)~~ Use profane, obscene, vulgar, or willfully abusive  
 1005 language in communicating with the debtor or any member of her  
 1006 or his family;

1007 (i)~~(9)~~ Claim, attempt, or threaten to enforce a debt when  
 1008 such person knows that the debt is not legitimate or assert the  
 1009 existence of some other legal right when such person knows that  
 1010 the right does not exist;

1011 (j)~~(10)~~ Use a communication which simulates in any manner  
 1012 legal or judicial process or which gives the appearance of being  
 1013 authorized, issued or approved by a government, governmental  
 1014 agency, or attorney at law, when it is not;

1015 (k)~~(11)~~ Communicate with a debtor under the guise of an  
 1016 attorney by using the stationery of an attorney or forms or  
 1017 instruments which only attorneys are authorized to prepare;

1018 (l)~~(12)~~ Orally communicate with a debtor in such a manner  
 1019 as to give the false impression or appearance that such person  
 1020 is or is associated with an attorney;

1021 (m)~~(13)~~ Advertise or threaten to advertise for sale any  
 1022 debt as a means to enforce payment except under court order or  
 1023 when acting as an assignee for the benefit of a creditor;

1024 (n)~~(14)~~ Publish or post, threaten to publish or post, or  
 1025 cause to be published or posted before the general public  
 1026 individual names or any list of names of debtors, commonly known  
 1027 as a deadbeat list, for the purpose of enforcing or attempting  
 1028 to enforce collection of consumer debts;

1029        ~~(o)(15)~~ Refuse to provide adequate identification of  
1030 herself or himself or her or his employer or other entity whom  
1031 she or he represents when requested to do so by a debtor from  
1032 whom she or he is collecting or attempting to collect a consumer  
1033 debt;

1034        ~~(p)(16)~~ Mail any communication to a debtor in an envelope  
1035 or postcard with words typed, written, or printed on the outside  
1036 of the envelope or postcard indicating that the purpose of the  
1037 communication is to collect a debt or is otherwise calculated to  
1038 embarrass the debtor. An example of this would be an envelope  
1039 addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe";

1040        ~~(q)(17)~~ Communicate with the debtor between the hours of 9  
1041 p.m. and 8 a.m. in the debtor's time zone, at any unusual time  
1042 or place, or a time or place that is known or should be known to  
1043 be inconvenient for the debtor without the prior consent of the  
1044 debtor;

1045        ~~(r)(18)~~ Communicate with a debtor if the person knows that  
1046 the debtor is represented by an attorney with respect to such  
1047 debt and has knowledge of, or can readily ascertain, such  
1048 attorney's name and address, unless the debtor's attorney fails  
1049 to respond within a reasonable period of time to a communication  
1050 from the person, unless the debtor's attorney consents to a  
1051 direct communication with the debtor, or unless the debtor  
1052 initiates the communication; or

1053        ~~(s)(19)~~ Cause charges to be made to any debtor for  
1054 communications by concealment of the true purpose of the  
1055 communication, including collect telephone calls and telegram  
1056 fees.

1057 (2) Any debt collector communicating with any person other  
 1058 than the consumer for the purpose of acquiring location  
 1059 information about the consumer:

1060 (a) Shall identify himself or herself, state that he or  
 1061 she is confirming or correcting location information concerning  
 1062 the consumer, and, only if expressly requested, identify his or  
 1063 her employer.

1064 (b) May not:

1065 1. State that such consumer owes a debt;

1066 2. Communicate with any such person more than once unless  
 1067 requested to do so by such person or unless the debt collector  
 1068 reasonably believes that the earlier response of such person is  
 1069 erroneous or incomplete and that such person now has correct or  
 1070 complete location information; or

1071 3. Communicate by postcard.

1072 (3) Without prior consent of the consumer given directly  
 1073 to the debt collector or express permission of a court of  
 1074 competent jurisdiction, a debt collector may not communicate  
 1075 with a consumer in connection with the collection of any debt at  
 1076 the consumer's place of employment if the debt collector knows  
 1077 or has reason to know that the consumer's employer prohibits the  
 1078 consumer from receiving such communication.

1079 (4) Except as provided in subsection (2), without the  
 1080 prior consent of the consumer given directly to the debt  
 1081 collector, or the express permission of a court of competent  
 1082 jurisdiction, or as reasonably necessary to effectuate a  
 1083 postjudgment remedy, a debt collector may not communicate, in  
 1084 connection with the collection of any debt, with any person

1085 other than a consumer, the consumer's attorney, a consumer  
 1086 reporting agency if otherwise permitted by law, the creditor,  
 1087 the creditor's attorney, or the debt collector's attorney.

1088 (5) If a consumer notifies a debt collector in writing  
 1089 that the consumer refuses to pay a debt or that the consumer  
 1090 wishes the debt collector to cease further communication with  
 1091 the consumer, the debt collector shall not communicate further  
 1092 with the consumer with respect to such debt, except to:

1093 (a) Advise the consumer that the debt collector's further  
 1094 efforts are being terminated;

1095 (b) Notify the consumer that the debt collector or  
 1096 creditor may invoke specified remedies which are ordinarily  
 1097 invoked by such debt collector or creditor; or

1098 (c) Where applicable, notify the consumer that the debt  
 1099 collector or creditor intends to invoke a specified remedy.  
 1100 If such notice from the consumer is made by mail, notification  
 1101 shall be complete upon receipt.

1102 (6) For the purpose of subsection (5), the term "consumer"  
 1103 includes the consumer's spouse, parent if the consumer is a  
 1104 minor, guardian, executor, or administrator.

1105 (7) A debt collector may not use any false, deceptive, or  
 1106 misleading representation or means in connection with the  
 1107 collection of any debt. Without limiting the general application  
 1108 of such prohibition, the following conduct is a violation of  
 1109 this subsection:

1110 (a) The false representation of:

1111 1. The character, amount, or legal status of any debt; or



1112        2. Any services rendered or compensation which may be  
 1113 lawfully received by any debt collector for the collection of a  
 1114 debt.

1115        (b) The representation or implication that nonpayment of  
 1116 any debt will result in the arrest or imprisonment of any person  
 1117 or the seizure, garnishment, attachment, or sale of any property  
 1118 or wages of any person unless such action is lawful and the debt  
 1119 collector or creditor intends to take such action.

1120        (c) The false representation or implication that a sale,  
 1121 referral, or other transfer of any interest in a debt shall  
 1122 cause the consumer to:

- 1123            1. Lose any claim or defense to payment of the debt; or
- 1124            2. Become subject to any practice prohibited by this  
 1125 subsection.

1126        (d) The false representation or implication that the  
 1127 consumer committed any crime or other conduct in order to  
 1128 disgrace the consumer.

1129        (e) The use of any false representation or deceptive means  
 1130 to collect or attempt to collect any debt or to obtain  
 1131 information concerning a consumer.

1132        (f) The failure to disclose in the initial communication  
 1133 that the debt collector is attempting to collect a debt and that  
 1134 any information obtained will be used for that purpose, and the  
 1135 failure to disclose in subsequent communications that the  
 1136 communication is from a debt collector, except this paragraph  
 1137 does not apply to a formal pleading made in connection with a  
 1138 legal action.

1139           (g) The false representation or implication that accounts  
 1140 have been turned over to innocent purchasers for value.

1141           (h) The use of any business, company, or organization name  
 1142 other than the true name of the debt collector's business,  
 1143 company, or organization.

1144           (i) The false representation or implication that documents  
 1145 are not legal process forms or do not require action by the  
 1146 consumer.

1147           (j) The false representation or implication that a debt  
 1148 collector operates or is employed by a consumer reporting  
 1149 agency.

1150           (8) A debt collector may not use unfair or unconscionable  
 1151 means to collect or attempt to collect any debt. Without  
 1152 limiting the general application of such prohibition, the  
 1153 following conduct is a violation of this section:

1154           (a) Collecting any amount, including any interest, fee,  
 1155 charge, or expense incidental to the principal obligation,  
 1156 unless such amount is expressly authorized by the agreement  
 1157 creating the debt or permitted by law.

1158           (b) The acceptance by a debt collector from any person of  
 1159 a check or other payment instrument postdated by more than 5  
 1160 days unless such person is notified in writing of the debt  
 1161 collector's intent to deposit such check or instrument not more  
 1162 than 10 nor less than 3 business days prior to such deposit.

1163           (c) The solicitation by a debt collector of any postdated  
 1164 check or postdated payment instrument for the purpose of  
 1165 threatening or instituting criminal prosecution.

1166        (d) Depositing or threatening to deposit any postdated  
1167 check or other postdated payment instrument prior to the date on  
1168 such check or instrument.

1169        (e) Taking or threatening to take any nonjudicial action  
1170 to effect dispossession or disablement of property if:

1171            1. There is no present right to possession of the property  
1172 claimed as collateral through an enforceable security interest;

1173            2. There is no present intention to take possession of the  
1174 property; or

1175            3. The property is exempt by law from such dispossession  
1176 or disablement.

1177        (f) Communicating with a consumer regarding a debt by post  
1178 card.

1179        (9) Within 5 days after the initial communication with a  
1180 consumer in connection with the collection of any debt, a debt  
1181 collector shall, unless the following information is contained  
1182 in the initial communication or the consumer has paid the debt,  
1183 send the consumer a written notice containing:

1184            (a) The amount of the debt.

1185            (b) The name of the creditor to whom the debt is owed.

1186            (c) A statement that unless the consumer, within 30 days  
1187 after receipt of the notice, disputes the validity of the debt,  
1188 or any portion thereof, the debt will be assumed to be valid by  
1189 the debt collector.

1190            (d) A statement that if the consumer notifies the debt  
1191 collector in writing within the 30-day period that the debt, or  
1192 any portion thereof, is disputed, the debt collector will obtain  
1193 verification of the debt or a copy of the judgment against the

1194 consumer and a copy of such verification or judgment will be  
 1195 mailed to the consumer by the debt collector.

1196 (e) A statement that, upon the consumer's written request  
 1197 within the 30-day period, the debt collector will provide the  
 1198 consumer with the name and address of the original creditor, if  
 1199 different from the current creditor.

1200 (10) If the consumer notifies the debt collector in  
 1201 writing within the 30-day period described in subsection (9)  
 1202 that the debt, or any portion thereof, is disputed, or that the  
 1203 consumer requests the name and address of the original creditor,  
 1204 the debt collector shall cease collection of the debt, or any  
 1205 disputed portion thereof, until the debt collector obtains  
 1206 verification of the debt or any copy of a judgment, or the name  
 1207 and address of the original creditor, and a copy of such  
 1208 verification or judgment, or name and address of the original  
 1209 creditor, is mailed to the consumer by the debt collector.

1210 (11) The failure of a consumer to dispute the validity of  
 1211 a debt under this section may not be construed by any court as  
 1212 an admission of liability by the consumer.

1213 (12) If any consumer owes multiple debts and makes any  
 1214 single payment to any debt collector with respect to such debts,  
 1215 such debt collector may not apply such payment to any debt which  
 1216 is disputed by the consumer and, where applicable, shall apply  
 1217 such payment in accordance with the consumer's directions.

1218 (13) Any debt collector who brings any legal action on a  
 1219 debt against any consumer shall:

1220 (a) In the case of an action to enforce an interest in  
 1221 real property securing the consumer's obligation, bring such

1222 action only in a judicial district or similar legal entity in  
 1223 which such real property is located; or

1224 (b) In the case of an action not described in paragraph  
 1225 (a), bring such action only in the judicial district or similar  
 1226 legal entity:

1227 1. In which such consumer signed the contract sued upon;  
 1228 or

1229 2. In which such consumer resides at the commencement of  
 1230 the action.

1231 (c) Nothing in this subsection shall be construed to  
 1232 authorize the bringing of legal actions by debt collectors.

1233 (14) It is unlawful to design, compile, and furnish any  
 1234 form knowing such form would be used to create the false belief  
 1235 in a consumer that a person other than the creditor of such  
 1236 consumer is participating in the collection of or in an attempt  
 1237 to collect a debt such consumer allegedly owes such creditor,  
 1238 when in fact such person is not so participating.

1239 (15) Any person who violates this section is liable to the  
 1240 same extent and in the same manner as a debt collector is liable  
 1241 under s. 559.813 for failure to comply with a provision of this  
 1242 part.

1243 Section 11. Section 559.725, Florida Statutes, is amended  
 1244 to read:

1245 (Substantial rewording of section. See s.  
 1246 559.725, Florida Statutes, for current text.)  
 1247 559.725 Consumer complaints.--

1248 (1) Any person having reason to believe that this part has  
 1249 been violated may file a written complaint with the office or

1250 the Division of Consumer Services of the Department of Financial  
 1251 Services setting forth the details of the alleged violation.

1252 (2) Any government office or agency receiving a complaint  
 1253 under this section shall advise any other government office or  
 1254 agency with apparent jurisdiction, including the office, the  
 1255 appropriate state attorney, or the Attorney General in the case  
 1256 of an out-of-state consumer debt collector, of any determination  
 1257 by that agency of a violation, or possible violation, of the  
 1258 requirements of this part by any consumer collection agency,  
 1259 whether or not registered or exempt from registration as  
 1260 required by this part.

1261 Section 12. Sections 559.726, 559.7262, 559.7263,  
 1262 559.7264, and 559.7265, Florida Statutes, are created to read:

1263 559.726 Powers and duties of the Office of Financial  
 1264 Regulation.--

1265 (1) Compliance with this part shall be enforced by the  
 1266 office, except when enforcement is specifically assigned to  
 1267 another agency.

1268 (2) The office may conduct an investigation or examination  
 1269 of any person, within or outside this state, which the office  
 1270 believes is necessary in order to determine whether a person has  
 1271 violated this chapter or the rules adopted by the commission.  
 1272 The office shall provide no less than 15 days' advance notice of  
 1273 any examination or investigation of a commercial collection  
 1274 agency. However, if the office suspects that the commercial  
 1275 collection agency has violated any provision of this code or any  
 1276 criminal laws of this state or of the United states or is  
 1277 engaging in an unsafe and unsound practice, the office may, at

1278 any time without advance notice, conduct an examination or  
 1279 investigation of all affairs, activities, transactions,  
 1280 accounts, business records, and assets of any commercial  
 1281 collection agency for the protection of the public.

1282 (3) The commission may adopt rules under ss. 120.536(1)  
 1283 and 120.54 to implement and administer this part.

1284 (4) The commission may adopt a rule:

1285 (a) Requiring electronic submission of any form, document,  
 1286 or fee required by this part, provided the rule reasonably  
 1287 accommodates a person with a technological or financial  
 1288 hardship.

1289 (b) Setting forth the criteria and procedures for  
 1290 obtaining an exemption due to a technological or financial  
 1291 hardship.

1292 (c) Accepting certification of compliance with the  
 1293 requirements of this part in lieu of requiring submission of  
 1294 specified documents.

1295 (5) All fees, charges, and fines collected by the office  
 1296 under this part shall be deposited to the credit of the  
 1297 Regulatory Trust Fund of the office.

1298 (6) The office may:

1299 (a) Issue, revoke, quash, or modify and serve subpoenas to  
 1300 compel the attendance of witnesses and subpoenas duces tecum to  
 1301 compel the production of all books, accounts, records, and other  
 1302 documents and materials relevant to an examination or  
 1303 investigation. The office may exercise these powers even if the  
 1304 subject of the investigation or examination is exempt from  
 1305 registration.

1306       (b) Administer oaths and affirmations to any person.  
 1307       (c) Take, or cause to be taken, testimony and depositions.  
 1308       (7)(a) In the event of noncompliance with a subpoena or  
 1309 subpoena duces tecum the office issued or caused to be issued,  
 1310 the office may petition a court of competent jurisdiction in the  
 1311 county in which the person subpoenaed resides or has her, his,  
 1312 or its principal place of business for an order requiring the  
 1313 person to appear and testify and to produce the books, accounts,  
 1314 records, and other documents that are specified in the subpoena  
 1315 duces tecum.  
 1316       (b) A copy of the petition shall be served upon the person  
 1317 subpoenaed by any person authorized by this section to serve  
 1318 subpoenas, who shall make and file with the court an affidavit  
 1319 showing the time, place, and date of service.  
 1320       (c) At a hearing on the petition to enforce compliance  
 1321 with a subpoena, the person subpoenaed, or any person whose  
 1322 interest will be substantially affected by the investigation,  
 1323 examination, or subpoena, may appear and object to the subpoena  
 1324 and to the granting of the petition. The court may make any  
 1325 order that justice requires in order to protect a party or other  
 1326 person and her or his personal and property rights, including,  
 1327 but not limited to, protection from annoyance, embarrassment,  
 1328 oppression, undue burden, or expense.  
 1329       (d) Failure to comply with an order granting, in whole or  
 1330 in part, a petition to enforce a subpoena is a contempt of the  
 1331 court.  
 1332       (8) Witnesses are entitled to the same fees and mileage to  
 1333 which they would be entitled by law for attending as witnesses



1334 in circuit court, except fees or mileage may not be allowed for  
 1335 testimony of a person taken at the person's principal office or  
 1336 residence.

1337 (9) Reasonable and necessary costs incurred by the office  
 1338 during an investigation may be assessed against any debt  
 1339 collector on the basis of actual costs incurred. Assessed  
 1340 expenses may include, but are not limited to, expenses for  
 1341 interpreters; expenses for communications; expenses for legal  
 1342 representation; expenses for economic, legal, or other research;  
 1343 analysis and testimony; and fees and expenses for witnesses. The  
 1344 failure to reimburse the office for its reasonable and necessary  
 1345 costs is a reason to deny a registrant's application or to  
 1346 revoke the prior approval of an application.

1347 599.7262 Injunction to restrain violations; receivers.--

1348 (1) The office may bring an action on behalf of the state  
 1349 to enjoin any person who has violated, or who is about to  
 1350 violate, this part or any rule or order of the office issued  
 1351 under this part.

1352 (2) In an injunctive proceeding, the court may issue a  
 1353 subpoena requiring the attendance of any witness or a subpoena  
 1354 duces tecum requiring the production of any book, account,  
 1355 record, or other documents and materials relevant to the pending  
 1356 case.

1357 (3)(a) In addition to any procedure provided by law for  
 1358 enforcing a temporary restraining order or a temporary or  
 1359 permanent injunction, the court may, upon application of the  
 1360 office, impound the property, assets, and business of the  
 1361 registrant, including, but not limited to, the books, records,

1362 documents, and papers of the registrant. The court may appoint a  
1363 receiver to administer the property. The receiver, when  
1364 appointed and qualified, has the powers and duties that are  
1365 conferred by the court.

1366 (b) After appointing the receiver, the court may issue an  
1367 order staying all pending suits and enjoining any further  
1368 litigation affecting the receiver's custody or possession of the  
1369 property, assets, and business, and the court, with the consent  
1370 of the chief judge of the circuit, may require that all suits be  
1371 assigned to the circuit court judge who appointed the receiver.

1372 559.7263 Cease and desist orders; refund orders.--

1373 (1) The office may issue and serve upon a person an order  
1374 to cease and desist and to take corrective action whenever the  
1375 office has reason to believe that the person is violating, has  
1376 violated, or is about to violate this part, any rule or order of  
1377 the office issued under this part, or any written agreement  
1378 between the person and the office. Procedural matters relating  
1379 to issuance and enforcement of such a cease and desist order are  
1380 governed by chapter 120.

1381 (2) The office may seek an order of restitution from a  
1382 court of competent jurisdiction for collected funds due to  
1383 creditors or any sum collected from a debtor without valid proof  
1384 of debt.

1385 559.7264 Evidence; examiner's worksheets, investigative  
1386 reports, other related documents.--An official written report,  
1387 sworn complaint, worksheet, or other related paper, or a duly  
1388 certified copy thereof, compiled, prepared, drafted, or  
1389 otherwise made by the financial examiner is admissible into

1390 evidence if the financial examiner is available for cross-  
 1391 examination; authenticates the worksheet; and testifies that the  
 1392 report, worksheet, or related document was prepared as a result  
 1393 of an examination of the books and records of a registrant or  
 1394 other person conducted under the authority of this part.

1395 559.7265 Books, accounts, and records; maintenance;  
 1396 examinations by the office.--

1397 (1) Each registrant shall maintain, at its principal place  
 1398 of business designated on the registration, all books, accounts,  
 1399 records, and documents necessary to determine the registrant's  
 1400 compliance with this part.

1401 (2) The office may authorize maintenance of records at a  
 1402 location other than a principal place of business. The office  
 1403 may require books, accounts, and records to be produced and  
 1404 available at a reasonable and convenient location in this state.

1405 (3) All books, accounts, records, documents, and receipts  
 1406 for payments to a registrant by a debtor, and payments made to a  
 1407 creditor by a registrant, shall be preserved and kept available  
 1408 for examination by the department for 3 years after the date of  
 1409 original entry. The commission shall adopt requirements by rule  
 1410 for maintaining the books, accounts, records, and documents  
 1411 retained by the registrant and for destroying the records.

1412 (4) The commission shall designate by rule the minimum  
 1413 information that must be contained in the registrant's books,  
 1414 accounts, records, and documents of a registrant to enable the  
 1415 office to determine a registrant's compliance with this part.

1416 Section 13. Section 559.730, Florida Statutes, is amended  
 1417 to read:

1418        (Substantial rewording of section. See s.  
1419        559.730, Florida Statutes, for current text.)  
1420        559.730 Administrative remedies.--  
1421        (1) The office may revoke or suspend the registration of  
1422        any registrant under this part who:  
1423            (a) Has been found guilty of, regardless of adjudication,  
1424        or has entered a plea of nolo contendere or guilty to, any crime  
1425        involving fraud, dishonest dealing, or moral turpitude;  
1426            (b) Has had a final judgment entered against the person in  
1427        a civil action upon the grounds of fraud, embezzlement,  
1428        misrepresentation, or deceit;  
1429            (c) Has had any business, professional, or occupational  
1430        license or registration suspended, revoked, or otherwise acted  
1431        against in any jurisdiction;  
1432            (d) Fails to maintain the surety bond required pursuant to  
1433        s. 559.556;  
1434            (e) Fails to maintain books and records as required by s.  
1435        559.7265;  
1436            (f) Violates any provision of this part, any rule or order  
1437        adopted pursuant to this part, or any written agreement entered  
1438        into with the office; or  
1439            (g) Paid for a registration with a check or electronic  
1440        transmission of funds which failed to clear the registrant's  
1441        financial institution;  
1442            (h) Falsified or willfully omitted any material  
1443        information asked for in any application, document, or record  
1444        required to be submitted under this part or the rules of the  
1445        commission;

1446 (i) Made a material false statement of fact in an  
1447 application for registration or in response to any request or  
1448 investigation by the office; or

1449 (j) Has a person, who directly or indirectly controls the  
1450 applicant as defined in s. 559.555(4), that is subject to an  
1451 action, or commits an act, contemplated by paragraph (a),  
1452 paragraph (b), paragraph (c), paragraph (f), paragraph (h), or  
1453 paragraph (i).

1454 (2) A registrant may request termination of its  
1455 registration by delivering written notice of its proposed  
1456 termination to the office. However, the delivery of the  
1457 termination notice does not affect any civil or criminal  
1458 liability of the registrant or the authority of the office to  
1459 enforce this part.

1460 (3) The office may deny a request to terminate a  
1461 registration or to withdraw an application for registration if  
1462 the office believes that the registrant has committed an act  
1463 that would be grounds for denial, suspension, or revocation  
1464 under this part.

1465 (4) Final action by the office to revoke or suspend the  
1466 registration of a registrant is subject to review according to  
1467 chapter 120 in the same manner as revocation of a license.

1468 (5) The office may impose an administrative fine of up to  
1469 \$1,000 per violation of this section or s. 559.555, s. 559.556,  
1470 s. 559.72, or s. 559.7265 against an offending registrant or  
1471 person as an administrative sanction. Final action by the office  
1472 to impose an administrative fine is subject to review in  
1473 accordance with ss. 120.569 and 120.57.

1474       (6) Notwithstanding any other provision of this section,  
1475 the office may impose a fine not to exceed \$1,000 per day for  
1476 each day that a person violates the code by engaging in the  
1477 business of a consumer collection agency without being  
1478 registered.

1479       (7) Any administrative fine imposed under this part shall  
1480 be payable to the office. The office shall maintain an  
1481 appropriate record and deposit the fine into the Regulatory  
1482 Trust Fund of the office.

1483       (8) An administrative action by the office to impose  
1484 revocation, suspension, or a fine must be brought within 5 years  
1485 after the date of the last violation upon which the action is  
1486 founded.

1487       (9) The remedies under this part are in addition to  
1488 remedies otherwise available for the same conduct under state or  
1489 local law.

1490       Section 14. Section 559.735, Florida Statutes, is created  
1491 to read:

1492       559.735 Administrative guidelines.--In imposing any  
1493 administrative remedy or penalty provided for in this part, the  
1494 office shall take into account the appropriateness of the  
1495 penalty with respect to the amount of financial resources and  
1496 good faith of the person charged, the gravity of the violation,  
1497 the history of previous violations, and such other matters as  
1498 justice may require.

1499       Section 15. Subsections (1) and (5) of section 559.77,  
1500 Florida Statutes, are amended to read:

1501       559.77 Civil remedies.--

1502 (1) A debtor may bring a civil action against a person  
 1503 violating the provisions of s. 559.72(1) in a court of competent  
 1504 jurisdiction of the county in which the alleged violator resides  
 1505 or has his or her principal place of business or in the county  
 1506 wherein the alleged violation occurred.

1507 (5) In applying and construing this section, due  
 1508 consideration and great weight shall be given to the  
 1509 interpretations of the Federal Trade Commission and the federal  
 1510 courts relating to the federal Fair Debt Collection Practices  
 1511 Act and the Federal Trade Commission Act. If there is an  
 1512 inconsistency between this part and an interpretation of the  
 1513 federal acts, the provision that is more protective of the  
 1514 consumer or debtor shall prevail.

1515 Section 16. Section 559.785, Florida Statutes, is amended  
 1516 to read:

1517 559.785 Criminal penalty.--

1518 (1) It ~~is shall be~~ a felony misdemeanor of the third first  
 1519 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or  
 1520 s. 775.084, for any person not exempt from registering as  
 1521 provided in this part to:

1522 (a) Operate or solicit business as a consumer collection  
 1523 agency engage in collecting consumer debts in this state without  
 1524 first registering with the office; ~~or to~~

1525 (b) Register or attempt to register by means of fraud,  
 1526 misrepresentation, or concealment;

1527 (c) Engage in any consumer debt collection activity after  
 1528 suspension or revocation of the registrant's registration under  
 1529 s. 559.730(1); or

1530           (d) Engage in any consumer debt collection activity while  
 1531 under a temporary or permanent injunction issued under s.  
 1532 559.78.

1533           (2) Each of the following acts constitutes a misdemeanor  
 1534 of the second degree, punishable as provided in s. 775.082 or s.  
 1535 775.083:

1536           (a) Relocating a business as a consumer collection agency  
 1537 or operating under any name other than that designated in the  
 1538 registration, unless written notification is given to the office  
 1539 and to the surety or sureties on the original bond.

1540           (b) Assigning or attempting to assign a registration under  
 1541 this part.

1542           (3) The office may refer evidence concerning a violation  
 1543 of this part, or of any rule or order, to any criminal  
 1544 prosecutorial agency that may, with or without the reference and  
 1545 in addition to any other action it might commence, bring an  
 1546 action against any person to enjoin, restrain, and prevent the  
 1547 commission of any prohibited act or practice.

1548           Section 17. Section 559.786, Florida Statutes, is created  
 1549 to read:

1550           559.786 Annual report.--The Office of Financial Regulation  
 1551 shall submit a report on January 1, 2006, and biannually  
 1552 thereafter, to the President of the Senate and the Speaker of  
 1553 the House of Representatives containing findings and conclusions  
 1554 concerning the effectiveness of the consumer and commercial  
 1555 collection practices acts in preventing fraud, abuse, and other  
 1556 unlawful activity associated with the collection of commercial  
 1557 and consumer debts. The report shall include a summary of the



1558 type and number of complaints received by the office or the  
1559 Division of Consumer Services of the Department of Financial  
1560 Services. The summary shall identify the nature and number of  
1561 the various kinds of complaints received. The report may further  
1562 contain legislative recommendations concerning the efficacy of  
1563 the consumer and commercial practices act.

1564 Section 18. Sections 559.547, 559.563, and 559.565,  
1565 Florida Statutes, are repealed.

1566 Section 19. For the 2005-2006 fiscal year, six positions  
1567 are authorized and the sum of \$428,588 is appropriated from the  
1568 Regulatory Trust Fund to the Office of Financial Regulation for  
1569 the purpose of enforcing this act. The six positions shall  
1570 consist of five examiners and one registration analyst.

1571 Section 20. This act shall take effect July 1, 2005.