

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Hudson offered the following:

Amendment (with title amendment)

Remove line 437 and insert:

Section 10. The Division of Statutory Revision is directed to redesignate the title of part II of chapter 559, Florida Statutes, consisting of ss. 559.101-559.116, as "Debt Settlement Services."

Section 11. Effective January 1, 2011, section 559.101, Florida Statutes, is created to read:

559.101 Short title.-This part may be cited as the "Debt Settlement Services Act."

Section 12. Effective January 1, 2011, section 559.102, Florida Statutes, is created to read:

559.102 Definitions.-As used in this part, the term:

(1) "Commission" means the Financial Services Commission.

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17 (2) "Control person" means an individual, partnership,
18 corporation, trust, or other organization that possesses the
19 power, directly or indirectly, to direct the management or
20 policies of a company, whether through ownership of securities,
21 by contract, or otherwise. The term includes, but is not limited
22 to:

23 (a) A company's executive officers, including the
24 president, chief executive officer, chief financial officer,
25 chief operations officer, chief legal officer, chief compliance
26 officer, director, or other individuals having similar status or
27 functions.

28 (b) For a corporation, each shareholder who, directly or
29 indirectly, owns 10 percent or more, or who has the power to
30 vote 10 percent or more, of a class of voting securities, unless
31 the applicant is a publicly traded company.

32 (c) For a partnership, all general partners and limited or
33 special partners who have contributed 10 percent or more, or who
34 have the right to receive upon dissolution 10 percent or more,
35 of the partnership's capital.

36 (d) For a trust, each trustee.

37 (e) For a limited liability company, all managing members
38 and those members who have contributed 10 percent or more, or
39 who have the right to receive upon dissolution 10 percent or
40 more, of the partnership's capital.

41 (3) "Debt settlement organization " means a person who
42 provides or offers to provide debt settlement services for
43 compensation.

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44 (4) "Debt settlement services" means services, other than
45 foreclosure-related rescue services, provided to a debtor with
46 the expectation of obtaining the creditor's agreement to accept
47 less than the principal amount of a debt in full satisfaction of
48 the debt.

49 (5) "Debtor" means an individual who obtains credit, seeks
50 a credit agreement with a creditor, or owes money to a creditor.

51 (6) "Enrolled debt" means the amount of debt at the time
52 the contract for debt settlement services is entered but does
53 not include any increases in the amount of debt or additional
54 fees or penalties applied to the debt after services included in
55 the contract are initiated.

56 (7) "Financial analysis" means the review of an
57 individual's budget, income, expenses, and debt by the debt
58 settlement organization in order to determine the individual's
59 suitability for additional debt settlement services provided by
60 the organization.

61 (8) "Office" means the Office of Financial Regulation of
62 the Financial Services Commission.

63 (9) "Person" has the same meaning as provided in s. 1.01.

64 (10) "Service contract" means the agreement for services
65 between a debt settlement organization and a debtor.

66 Section 13. Effective January 1, 2011, section 559.103,
67 Florida Statutes, is created to read:

68 559.103 Powers and duties of the Office of Financial
69 Regulation; fees.-

70 (1) The office is responsible for the administration and
71 enforcement of this part.

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72 (2) The office may conduct an investigation of any person
73 if the office has reason to believe, upon complaint or
74 otherwise, that any violation of this part may have been
75 committed or is about to be committed.

76 (3) All fees, charges, and fines collected pursuant to
77 this part shall be deposited in the State Treasury to the credit
78 of the Regulatory Trust Fund under the office.

79 Section 14. Effective January 1, 2011, section 559.104,
80 Florida Statutes, is created to read:

81 559.104 Rules.—The commission may adopt rules to
82 administer this part, including rules that:

83 (1) Require electronic submission of any forms, documents,
84 or fees required under this part.

85 (2) Establish time periods during which an applicant for
86 registration is barred from registration or a registered debt
87 settlement organization is barred from renewal due to prior
88 criminal convictions of, or guilty or nolo contendere pleas by,
89 any of the applicant's or registrant's control persons,
90 regardless of adjudication.

91 (a) The rules must provide:

92 1. Permanent bars for felonies involving money laundering,
93 breach of trust, dishonesty, embezzlement, fraud, fraudulent
94 conversion, misappropriation of property, racketeering, or
95 theft;

96 2. A 15-year disqualifying period for felonies involving
97 moral turpitude;

98 3. A 7-year disqualifying period for all other felonies;
99 and

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100 4. A 5-year disqualifying period for misdemeanors
101 involving fraud, dishonesty, or any other act of moral
102 turpitude.

103 (b) The rules may provide for an additional waiting period
104 due to dates of imprisonment or community supervision, the
105 commitment of multiple crimes, and other factors reasonably
106 related to the applicant's criminal history.

107 (c) The rules may provide for mitigating factors for
108 crimes identified in subparagraph (a)2. However, the mitigation
109 may not result in a period of disqualification less than 7
110 years. The rule may not mitigate the disqualifying periods in
111 subparagraphs (a)1., (a)3., and (a)4.

112 (d) An applicant is not eligible for registration until
113 the expiration of the disqualifying period set by rule.

114 (e) Section 112.011 is not applicable to eligibility for
115 registration under this part.

116 Section 15. Effective January 1, 2011, section 559.105,
117 Florida Statutes, is created to read:

118 559.105 Exceptions.—This part does not apply to:

119 (1) A person licensed to practice law in this state who is
120 providing debt settlement services.

121 (2) A person who engages in debt settlement services to
122 adjust the indebtedness owed to such person.

123 (3) The following entities or their subsidiaries:

124 (a) The Federal National Mortgage Association.

125 (b) The Federal Home Loan Mortgage Corporation.

126 (c) The Florida Housing Finance Corporation created
127 pursuant to s. 420.504.

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128 (d) Any financial institution as defined in s.

129 655.005(1)(h).

130 (e) A consumer reporting agency as defined in the Federal
131 Fair Credit Reporting Act, 15 U.S.C. s. 1681a.

132 Section 16. Effective January 1, 2011, section 559.106,
133 Florida Statutes, is created to read:

134 559.106 Registration of debt settlement organization.-

135 (1) Effective April 1, 2011, each person who acts as a
136 debt settlement organization in this state must be registered in
137 accordance with this section. This applies to debt settlement
138 organizations operating in this state or from another state,
139 regardless of whether such organization is registered, licensed,
140 or the equivalent in accordance with the laws of another state.

141 (2) In order to apply for registration, an applicant must
142 submit:

143 (a) A completed registration application form as
144 prescribed by commission rule which includes the name and
145 principal business address and e-mail address of the debt
146 settlement organization.

147 (b) A registration fee of \$1,000. The registration fee is
148 nonrefundable and may not be prorated for a partial year of
149 registration.

150 (c) Fingerprints for the applicant and each of the
151 applicant's control persons in accordance with rules adopted by
152 the commission.

153 1. The fingerprints may be submitted to the office or a
154 vendor acting on behalf of the office.

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155 2. The office may contract with a third-party vendor to
156 provide live-scan fingerprinting in lieu of a paper fingerprint
157 card.

158 3. A state criminal history background check must be
159 conducted through the Department of Law Enforcement, and a
160 federal criminal history background check must be conducted
161 through the Federal Bureau of Investigation.

162 4. All fingerprints submitted to the Department of Law
163 Enforcement must be submitted electronically and entered into
164 the statewide automated fingerprint identification system
165 established in s. 943.05(2)(b) and available for use in
166 accordance with s. 943.05(2)(g) and (h). The office shall pay an
167 annual fee to the department to participate in the system and
168 inform the department of any person whose fingerprints are no
169 longer required to be retained.

170 5. The costs of fingerprint processing, including the cost
171 of retaining the fingerprints, shall be borne by the person
172 subject to the background check.

173 6. The office is responsible for reviewing the results of
174 the state and federal criminal history checks and determining
175 whether the applicant meets registration requirements.

176 (d) Submit documentation demonstrating that the surety
177 bond requirements specified in s. 559.108 have been satisfied.

178 (e) Submit additional information or documentation
179 requested by the office and required by rule concerning the
180 applicant or a control person of the applicant. Additional
181 information may include documentation of pending and prior
182 disciplinary and criminal history events, including arrest

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183 reports and certified copies of charging documents, plea
184 agreements, judgments and sentencing documents, documents
185 relating to pretrial intervention, orders terminating probation
186 or supervised release, final administrative agency orders, or
187 other comparable documents that may provide the office with the
188 appropriate information to determine eligibility for
189 registration.

190 (3) An application is considered received for the purposes
191 of s. 120.60 upon the office's receipt of the completed
192 application form, all required documentation, criminal history
193 information, the application fee, and all applicable
194 fingerprinting processing fees.

195 (4) The office shall issue a debt settlement organization
196 registration to each applicant who is not otherwise ineligible
197 and who meets the requirements of this section. However, it is a
198 ground for denial of registration if the applicant or one of the
199 applicant's control persons:

200 (a) Has been found guilty of, regardless of adjudication,
201 or has entered a plea of nolo contendere or guilty to, any
202 felony, any crime involving racketeering, fraud, theft,
203 embezzlement, fraudulent conversion, breach of trust,
204 misappropriation of property, dishonesty, or moral turpitude;

205 (b) Has committed any violation specified in s. 559.113;

206 (c) Is the subject of a pending felony criminal
207 prosecution or a prosecution or an administrative enforcement
208 action, in any jurisdiction, which involves fraud, racketeering,
209 embezzlement, fraudulent conversion, misappropriation of

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210 property, theft, dishonesty, breach of trust, or any other act
211 of moral turpitude;

212 (d) Pays the office any fee, fine, or other amount with a
213 check or electronic transmission of funds which fails to clear
214 the applicant's financial institution;

215 (e) Makes a material misstatement on any application,
216 document, or record required to be submitted under this part or
217 the rules of the commission; or

218 (f) Has been the subject of any decision, finding,
219 injunction, suspension, prohibition, revocation, denial,
220 judgment, or other adverse action by any state or federal
221 agency.

222 (5) A registration issued under this section expires
223 annually on March 31, unless canceled, suspended, revoked, or
224 otherwise terminated, and must be renewed as provided under s.
225 559.107.

226 Section 17. Effective April 1, 2011, section 559.107,
227 Florida Statutes, is created to read:

228 559.107 Registration renewal.—

229 (1) In order to renew a debt settlement organization
230 registration, a debt settlement organization must submit:

231 (a) A completed registration renewal form as prescribed by
232 commission rule.

233 (b) Fingerprints, in accordance with s. 559.106, for any
234 new control persons who have not been screened.

235 (c) Any additional information or documentation requested
236 by the office and required by rule concerning the registrant or
237 control person of the registrant. Additional information may

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238 include documentation of any pending and prior disciplinary and
239 criminal history events, including arrest reports and certified
240 copies of charging documents, plea agreements, judgments and
241 sentencing documents, documents relating to pretrial
242 intervention, orders terminating probation or supervised
243 release, final administrative agency orders, or other comparable
244 documents that may provide the office with the appropriate
245 information to determine eligibility for renewal of
246 registration.

247 (d) A nonrefundable renewal fee of \$750 and nonrefundable
248 fees to cover the cost of further fingerprint processing and
249 retention as set forth in commission rule.

250 (2) The office may not renew a debt settlement
251 organization registration unless the registrant continues to
252 meet the minimum requirements for initial registration pursuant
253 to s. 559.106 and adopted rule.

254 Section 18. Effective January 1, 2011, section 559.108,
255 Florida Statutes, is created to read:

256 559.108 Financial requirements; surety bond; disclosure.—A
257 debt settlement organization must:

258 (1) Obtain and maintain at all times insurance coverage
259 for employee dishonesty, depositor's forgery, and computer fraud
260 in an amount not less than the greater of \$100,000 or 10 percent
261 of the monthly average of the aggregate of all deposits made by
262 debtors to the organization for distribution to creditors for
263 the 6 months immediately preceding the date of initial
264 application for or renewal of the insurance. The deductible on

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265 such coverage may not exceed 10 percent of the face amount of
266 the policy coverage.

267 (2) Obtain and maintain a surety bond from a surety
268 company authorized to do business in this state. The amount and
269 form of the bond shall be specified by rule and must be at least
270 \$50,000 but may not exceed \$1 million. The rule must provide
271 allowances for business volume. The bond shall be in favor of
272 the state for the use and benefit of any debtor who suffers or
273 sustains any loss or damage by reason of any violation of this
274 part. Pursuant to initial registration and renewal, each
275 applicant shall furnish to the office:

276 (a) The original executed surety bond issued by a surety
277 company authorized to do business in this state.

278 (b) A statement from the surety company that the premium
279 for the bond has been paid in full by the applicant.

280 (c) A statement from the surety company that the bond
281 issued by the surety company meets the requirements of this
282 part. The liability of the surety company under any bond issued
283 pursuant to this section may not, in the aggregate, exceed the
284 amount of the bond regardless of the number or amount of any
285 claims filed or which might be asserted against the surety on
286 such bond. If multiple claims are filed which collectively
287 exceed the amount of the bond, the surety may pay the full
288 amount of the bond to the office and is not further liable under
289 the bond. The office shall hold such funds for distribution to
290 claimants and administratively determine and pay to each
291 claimant a pro rata share of each valid claim made within 6

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292 months after the date the first claim is filed against the
293 surety.

294 Section 19. Effective January 1, 2011, section 559.109,
295 Florida Statutes, is created to read:

296 559.109 Maintenance of records.-

297 (1) Each registered debt settlement organization shall
298 maintain, at the principal place of business designated on the
299 registration, all books, accounts, records, and documents
300 necessary to determine the registrant's compliance with this
301 part.

302 (2) The office may authorize the maintenance of records at
303 a location other than a principal place of business. The office
304 may require books, accounts, and records to be produced and
305 available at a reasonable and convenient location in this state.

306 (3) The commission may prescribe by rule the minimum
307 information to be shown in the books, accounts, records, and
308 documents of registrants so that such records enable the office
309 to determine the registrant's compliance with this part.

310 (4) All books, accounts, records, documents, and receipts
311 of any payment transaction must be preserved and kept available
312 for inspection by the office for at least 5 years after the date
313 the transaction is completed. The commission may prescribe by
314 rule requirements for the destruction of books, accounts,
315 records, and documents retained by the registrant after the
316 completion of the required 5-year period.

317 Section 20. Effective January 1, 2011, section 559.111,
318 Florida Statutes, is created to read:

319 559.111 Financial analysis; service contracts.-

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320 (1) Before a debtor signs a service contract, the debt
321 settlement organization shall prepare, retain a copy of, and
322 provide to the debtor a written financial analysis specific to
323 the debtor which includes an evaluation of the debtor's income,
324 expenses, and all debts. An additional fee may not be charged
325 for the financial analysis.

326 (2) Based on the completed financial analysis, the debt
327 settlement organization shall provide to the debtor, and retain
328 a copy of, a written determination of the debtor's suitability
329 for debt settlement services and whether the debtor can
330 reasonably meet the requirements of the service contract,
331 including the debtor's ability to save the amount estimated to
332 be needed to fund the settlement of the debt.

333 (3) The service contract between the debt settlement
334 organization and the debtor must be signed and dated by the
335 debtor and include all of the following:

336 (a) The following statement in at least 12-point uppercase
337 type at the top of the service contract:

338
339 IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR
340 CREDITORS BEFORE SIGNING THIS CONTRACT. YOUR CREDITORS
341 MAY BE WILLING TO DIRECTLY NEGOTIATE A SETTLEMENT,
342 INTEREST RATE REDUCTION, MODIFICATION, PAYMENT PLAN,
343 OR RESTRUCTURING OF YOUR DEBT FREE OF CHARGE.

344
345 YOUR USE OF DEBT SETTLEMENT SERVICES MAY RESULT IN
346 LATE FEES, ADDITIONAL DEBTS, AND AN ADVERSE CREDIT

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347 RATING. YOU SHOULD CONTACT YOUR CREDITOR FOR MORE
348 INFORMATION.

349
350 (b) A full and detailed description of the services to be
351 performed by the debt settlement organization for the debtor,
352 including the financial analysis determining the suitability of
353 the debtor for debt settlement services, all guarantees and all
354 promises of full or partial refunds, the estimated date or
355 length of time by which the services are to be performed, and a
356 copy of the Florida Debt Settlement Services Act.

357 (c) All terms and conditions of payment, including the
358 anticipated total of all payments to be made by the debtor and
359 the estimated amount of any payments to be made to the debt
360 settlement organization or to any other person.

361 (d) The debt settlement organization's principal business
362 address and the name and address of its agent in the state
363 authorized to receive service of process.

364 (e) A clear and conspicuous statement in boldface type, in
365 immediate proximity to the space reserved for the debtor's
366 signature, which states: "You, the debtor, may cancel this
367 service contract at any time before midnight of the 5th business
368 day after the date of signing this contract. (See the attached
369 notice of right to cancel for further explanation of this
370 right.)"

371 (f) A notice of right to cancel attached to the contract,
372 in duplicate and easily detachable, which contains the following
373 statement in at least 12-point uppercase type:

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NOTICE OF RIGHT TO CANCEL

YOU MAY CANCEL ANY CONTRACT FOR DEBT SETTLEMENT SERVICES WITHIN 5 BUSINESS DAYS AFTER THE DATE THE CONTRACT IS SIGNED BY YOU WITHOUT INCURRING ANY PENALTY OR OBLIGATION.

YOUR PAYMENT MUST BE RETURNED TO YOU WITHIN 10 BUSINESS DAYS AFTER RECEIPT OF YOUR CANCELLATION NOTICE.

TO CANCEL THIS CONTRACT, YOU MUST MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE CLEARLY INDICATING YOUR DESIRE TO CANCEL YOUR CONTRACT.

TO: ... (name of debt settlement organization) ...

AT: ... (address) ...

BY SIGNING AND DATING THIS NOTICE, I HEREBY CANCEL MY SERVICE CONTRACT, EXECUTED ON: ... (date service contract signed) ...

... (Signature of Debtor) ...

... (Date) ...

... (Address) ...

... (Phone Number) ...

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403 (4) The debt settlement organization must provide the
404 debtor, at the time the documents are signed, with a copy of the
405 completed service contract as described in subsection (3) and
406 all other documents the organization requires the debtor to
407 sign.

408 Section 21. Effective January 1, 2011, section 559.112,
409 Florida Statutes, is created to read:

410 559.112 Prohibited acts.—

411 (1) A debt settlement organization may not, directly or
412 indirectly, charge or accept from a debtor:

413 (a) Any payment for services before the execution of a
414 written service contract.

415 (b) A fee or contribution greater than \$50 for the initial
416 setup or initial consultation.

417 (c) A fee or contribution for debt settlement services
418 that exceeds 40 percent of the realized savings. As used in this
419 paragraph, the term "realized savings" means the difference
420 between the amount of the enrolled debt and the amount paid to
421 the creditor in discharge of the enrolled debt. However, such
422 fee or contribution collected for debt settlement services, in
423 the aggregate, may not exceed 20 percent of the enrolled debt.

424 (d) For a service contract requiring payment of a fee or
425 contribution on a monthly basis, a fee or contribution for debt
426 settlement services that exceeds 20 percent of the enrolled
427 debt. Such fees or contributions may only be collected under
428 this paragraph by apportioning the collection of the fees or
429 contributions pro rata throughout at least one-half of the
430 estimated term of the debt settlement services.

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A fee or contribution authorized under this subsection is not a part of, and may not be included in the calculation of, the total enrolled debt.

(2) A debt settlement organization may not:

(a) Advise any debtor, directly or indirectly, against contacting or communicating with her or his creditors before or during the service contract period.

(b) Make or use any false or misleading representations or omit any material fact in connection with the offer, sale, or provision of services, or engage, directly or indirectly, in any fraudulent, false, misleading, unconscionable, unfair, or deceptive act or practice in connection with the offer or sale of any of the services of a debt settlement organization.

(c) Provide services to a debtor without executing a service contract that complies with s. 559.111.

(d) Fail to provide copies of the financial analysis, all service contracts, and any other documents the debtor is required to sign as provided under s. 559.111.

(e) Fail to perform any of the terms, conditions, and obligations provided in the service contract with the debtor.

(f) Fail to disclose on any offer or sale of services, including any Internet website, the debt settlement organization's name, business address, telephone number, and e-mail address, if any.

(g) Fail to provide the debtor with a 5-business-day right of cancellation without the debtor incurring any penalty or obligation.

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459 (h) Fail to report on a form prescribed by commission rule
460 any change to information contained in an initial application
461 form or any amendment to the application within 30 days after
462 the change is effective.

463 (i) Fail to comply with any of the provisions of this
464 part.

465 Section 22. Effective January 1, 2011, section 559.113,
466 Florida Statutes, is created to read:

467 559.113 Debtor complaints; administrative duties.-

468 (1) The office shall receive and maintain records of
469 correspondence and complaints from debtors concerning any person
470 who provides debt settlement services, including any debt
471 settlement organization.

472 (2) The office shall inform and furnish relevant
473 information to the appropriate regulatory body if a debt
474 settlement organization exempt from registration under this part
475 has been named in consumer complaints alleging violations of
476 this part.

477 (3) The office shall investigate complaints and record the
478 resolution of such complaints.

479 (4) A debt settlement organization that provides or
480 attempts to provide debt settlement services without first
481 registering in accordance with this part is subject to a penalty
482 of up to \$25,000 in addition to the other remedies provided in
483 this part and under part II of chapter 501. The office shall
484 advise the appropriate state attorney, or the Attorney General,
485 of any determination by the office of a violation of this part
486 by any debt settlement organization that is not registered as
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487 required by this part. The office shall furnish the state
488 attorney or Attorney General with the office's information
489 concerning the alleged violations of such requirements. The
490 enforcing authority is entitled to reasonable attorney's fees
491 and costs in any action brought to enforce this part against an
492 unregistered debt settlement organization.

493 (5) A registered debt settlement organization must provide
494 a written response to the office within 20 days after receipt of
495 a written request from the office for information concerning a
496 consumer complaint. The response must address the issues and
497 allegations raised in the complaint. The office may impose an
498 administrative fine of up to \$2,500 per request per day upon any
499 registrant that fails to comply with this subsection.

500 Section 23. Effective January 1, 2011, section 559.114,
501 Florida Statutes, is created to read:

502 559.114 Subpoenas.—

503 (1) The office may:

504 (a) Issue and serve subpoenas and subpoenas duces tecum to
505 compel the attendance of witnesses and the production of all
506 books, accounts, records, and other documents and materials
507 relevant to an investigation conducted by the office. The
508 office, or its authorized representative, may administer oaths
509 and affirmations to any person.

510 (b) Seek subpoenas or subpoenas duces tecum from any court
511 to command the appearance of witnesses and the production of
512 books, accounts, records, and other documents or materials at a
513 time and place named in the subpoenas, and an authorized
514 representative of the office may serve such subpoenas.

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515 (2) If there is substantial noncompliance with a subpoena
516 or subpoena duces tecum issued by the office, the office may
517 petition the court in the county where the person subpoenaed
518 resides or has her or his principal place of business for an
519 order requiring the person to appear, testify, or produce such
520 books, accounts, records, and other documents as are specified
521 in the subpoena or subpoena duces tecum.

522 (3) The office is entitled to the summary procedure
523 provided in s. 51.011, and the court shall advance such cause on
524 its calendar. Attorney's fees and any other costs incurred by
525 the office to obtain an order granting, in whole or in part, a
526 petition for enforcement of a subpoena or subpoena duces tecum
527 shall be taxed against the subpoenaed person, and failure to
528 comply with such order is a contempt of court.

529 (4) To aid in the enforcement of this part, the office may
530 require or permit a person to file a statement in writing, under
531 oath or otherwise as the office determines, as to all the facts
532 and circumstances concerning the matter to be investigated.

533 Section 24. Effective January 1, 2011, section 559.115,
534 Florida Statutes, is created to read:

535 559.115 Cease and desist orders.—The office may issue and
536 serve upon any person an order to cease and desist and to take
537 corrective action if it has reason to believe the person is
538 violating, has violated, or is about to violate any provision of
539 this part, any rule or order issued under this part, or any
540 written agreement between the person and the office. All
541 procedural matters relating to issuance and enforcement of such
542 order are governed by the Administrative Procedure Act.

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543 Section 25. Effective January 1, 2011, section 559.116,
544 Florida Statutes, is created to read:

545 559.116 Violations; penalties.-

546 (1) A person who violates any provision of this part
547 commits an unfair or deceptive trade practice as defined in part
548 II of chapter 501 and is also subject to the penalties,
549 remedies, and enforcement actions provided therein. Further, any
550 debtor injured by a violation of this part may bring an action
551 for recovery of damages. Judgment shall be entered for actual
552 damages, but in no case less than the amount paid by the debtor
553 to the debt settlement organization plus reasonable attorney's
554 fees and costs.

555 (2) The office may impose an administrative fine on, or
556 revoke or suspend the registration of a registrant who has
557 committed a violation of this part. Final action to fine,
558 suspend, or revoke the registration of a registrant is subject
559 to review in accordance with chapter 120.

560 (a) The office may impose suspension rather than
561 revocation of a registration if circumstances warrant that one
562 or the other should be imposed and the registrant demonstrates
563 that the registrant has taken affirmative steps that can be
564 expected to effectively eliminate the violations and that the
565 registrant's registration has never been previously suspended.

566 (b) In addition to, or in lieu of suspension or revocation
567 of a registration, the office may impose an administrative fine
568 of up to \$25,000 per violation. The office shall adopt rules
569 establishing guidelines for imposing administrative penalties.

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570 (3) A person who provides debt settlement services in this
571 state without first registering with the office, or who
572 registers or attempts to register by means of fraud,
573 misrepresentation, or concealment, commits a felony of the third
574 degree, punishable as provided in s. 775.082, s. 775.083, or s.
575 775.084.

576 Section 26. Effective January 1, 2011, paragraph (g) of
577 subsection (1) of section 516.07, Florida Statutes, is amended
578 to read:

579 516.07 Grounds for denial of license or for disciplinary
580 action.—

581 (1) The following acts are violations of this chapter and
582 constitute grounds for denial of an application for a license to
583 make consumer finance loans and grounds for any of the
584 disciplinary actions specified in subsection (2):

585 (g) Any violation of part III of chapter 817 ~~or part II of~~
586 ~~chapter 559 or of any rule adopted under part II of chapter 559.~~

587 Section 27. Sections 559.10, 559.11, 559.12, and 559.13,
588 Florida Statutes, are repealed.

589 Section 28. Effective July 1, 2010, the sums of \$261,938
590 in recurring funds and \$213,767 in nonrecurring funds are
591 appropriated from the Regulatory Trust Fund of the Department of
592 Financial Services to the Office of Financial Regulation, and
593 four full-time equivalent positions with the associated salary
594 rate of 187,707 are authorized, for the purpose of administering
595 this act during the 2010-2011 fiscal year.

596 Section 29. Except as otherwise expressly provided in this
597 act and except for this section, which shall take effect upon
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598 this act becoming a law, this act shall take effect October 1,
599 2010.

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T I T L E A M E N D M E N T

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Remove lines 28-29 and insert:

604

conforming provisions to federal law; providing a

605

directive to the Division of Statutory Revision; creating

606

s. 559.101, F.S.; providing a short title; creating s.

607

559.102, F.S.; providing definitions; creating s. 559.103,

608

F.S.; providing the powers of the Office of Financial

609

Regulation; creating s. 559.104, F.S.; authorizing the

610

Financial Services Commission to adopt rules; creating s.

611

559.105, F.S.; providing exceptions from the applicability

612

of provisions regulating debt settlement services;

613

providing an exception for attorneys representing clients;

614

creating s. 559.106, F.S.; requiring debt settlement

615

organizations to be registered with the office; providing

616

a registration fee; requiring background screening of

617

applicants and control persons; providing grounds for

618

registration issuance or denial; requiring annual renewal;

619

creating s. 559.107, F.S.; requiring registration renewal;

620

creating s. 559.108, F.S.; requiring a debt settlement

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organization to obtain certain insurance coverage and a

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surety bond and to provide proof of such bond to the

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office; creating s. 559.109, F.S.; requiring a debt

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settlement organization to maintain records; creating s.

625

559.111, F.S.; requiring a debt settlement organization to

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626 prepare a financial analysis for the debtor; providing for
627 service contracts; requiring certain provisions to be
628 included in such contracts; requiring the debt settlement
629 organization to provide the debtor with copies of all
630 signed documents; creating s. 559.112, F.S.; prohibiting
631 certain acts by debt settlement organizations; providing
632 penalties; creating s. 559.113, F.S.; providing for debtor
633 complaints to the office; providing procedures and office
634 duties, including administrative penalties; creating s.
635 559.114, F.S.; providing for the issuance of subpoenas by
636 the office; creating s. 559.115, F.S.; authorizing the
637 office to issue cease and desist orders; creating s.
638 559.116, F.S.; declaring that violations of the part are
639 deceptive and unfair trade practices; providing
640 administrative penalties; specifying violations that
641 result in criminal penalties; amending s. 516.07, F.S.;
642 conforming a cross-reference; repealing ss. 559.10,
643 559.11, 559.12, and 559.13, F.S., relating to budget
644 planning; providing an appropriation and authorizing
645 additional positions; providing effective dates.

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