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Proposed Committee Substitute by the Committee on Banking and  
Insurance

A bill to be entitled

An act relating to consumer debt collection;  
reordering and amending s. 559.55, F.S.; revising  
definitions relating to the regulation of debt  
collection practices; amending s. 559.551, F.S.;  
conforming cross-references; amending s. 559.552,  
F.S.; revising provisions relating to the relationship  
between state and federal law; creating s. 559.5522,  
F.S.; providing the powers of the Office of Financial  
Regulation; creating s. 559.5524, F.S.; authorizing  
the Financial Services Commission to adopt rules;  
amending s. 559.553, F.S.; deleting all exemptions  
from registration as a consumer collection agency;  
amending s. 559.555, F.S.; revising procedures for  
registering as a consumer collection agency;  
increasing the registration fee; requiring background  
screening of applicants and control persons; providing  
grounds for registration issuance or denial; requiring  
annual renewal; creating s. 559.5551, F.S.; providing  
for registration renewal; creating s. 559.5554, F.S.;  
requiring a licensee to obtain a surety bond and  
provide proof of such bond to the office; creating s.  
559.5556, F.S.; requiring a consumer collection agency  
to maintain records; repealing s. 559.563, F.S.,  
relating to void registrations; amending s. 559.565,  
F.S.; increasing the fine against an unregistered  
consumer collection agency and adding a fine against



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28 certain debt collectors; expanding the authority of  
29 the Attorney General to take action against an out-of-  
30 state consumer collection agency; creating s. 559.566,  
31 F.S.; specifying how a debt collector may communicate  
32 with a consumer; amending s. 559.715, F.S.; conforming  
33 provisions to changes made by the act; amending s.  
34 559.72, F.S.; revising prohibited acts, including  
35 violations of communication procedures; specifying  
36 acts of harassment; prohibiting a debt collector from  
37 acting as a debt collector unless such person is an  
38 employee or control person of a registered agency;  
39 adding violations relating to prior criminal acts and  
40 failure to conform with registration requirements;  
41 amending s. 559.725, F.S.; revising provisions  
42 relating to consumer complaints about a consumer  
43 collection agency; creating s. 559.726, F.S.;  
44 providing for the issuance of subpoenas by the office;  
45 creating s. 559.727, F.S.; authorizing the office to  
46 issue cease and desist orders; amending s. 559.730,  
47 F.S.; revising provisions relating to administrative  
48 remedies; increasing the maximum penalty; authorizing  
49 the office to adopt rules relating to penalty  
50 guidelines; deleting the 2-year limitation on bringing  
51 an administrative action; amending s. 559.77, F.S.;  
52 revising provisions relating to civil remedies;  
53 revising the beginning date for a statute of  
54 limitation; amending s. 559.78, F.S.; revising  
55 provisions relating to judicial enforcement; amending  
56 s. 559.785, F.S.; providing criminal penalties for



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57 failure to obtain licensure; creating s. 559.786,  
58 F.S.; providing that a violation of provisions  
59 relating to debt collectors is a violation of the  
60 Florida Deceptive and Unfair Trade Practices Act;  
61 delaying the expiration of certain registrations of  
62 consumer collection agencies; providing effective  
63 dates.

64  
65 Be It Enacted by the Legislature of the State of Florida:

66  
67 Section 1. Section 559.55, Florida Statutes, is reordered  
68 and amended to read:

69 559.55 Definitions.—As used in ~~The following terms shall,~~  
70 ~~unless the context otherwise indicates, have the following~~  
71 ~~meanings for the purpose of this part, the term:~~

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

73 (7)(1) "Debt" or "consumer debt" means any obligation or  
74 alleged obligation of a consumer to pay money arising out of a  
75 transaction in which the money, property, insurance, or services  
76 that which are the subject of the transaction are primarily for  
77 personal, family, or household purposes, whether or not such  
78 obligation has been reduced to judgment.

79 (3)(2) "Debtor" or "Consumer" means any natural person  
80 obligated or allegedly obligated to pay any debt.

81 (6)(3) "Creditor" means any person who offers or extends  
82 credit creating a debt or to whom a debt is owed, but does not  
83 include a any person who receives to the extent that they  
84 receive an assignment or transfer of a debt in default solely  
85 for the purpose of facilitating the collection of such debt for



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86 another.

87 ~~(11)(4)~~ "Office" means the Office of Financial Regulation  
88 of the Financial Services Commission.

89 ~~(2)(5)~~ "Communication" means ~~the~~ conveying ~~of~~ information  
90 regarding a debt, directly or indirectly, to any person through  
91 any medium.

92 ~~(8)(6)~~ "Debt collector" means a ~~any~~ person who uses any  
93 instrumentality of commerce within this state or the mails,  
94 whether initiated from within or outside this state, in a ~~any~~  
95 business whose ~~the~~ principal purpose ~~of which~~ is the collection  
96 of debts, or who regularly collects or attempts to collect,  
97 directly or indirectly, debts ~~owed or due or~~ asserted to be owed  
98 or due another. Notwithstanding paragraph (f), the term "~~debt~~  
99 ~~collector~~" includes a ~~any~~ creditor who, in the process of  
100 collecting her or his own debts, uses any name other than her or  
101 his own which indicates ~~would indicate~~ that a third person is  
102 collecting or attempting to collect such debts. The term does  
103 not include:

104 (a) An ~~Any~~ officer or employee of a creditor who ~~while,~~ in  
105 the name of the creditor, collects ~~collecting~~ debts for such  
106 creditor;

107 (b) A ~~Any~~ person ~~while~~ acting as a debt collector for  
108 another person, both of whom are related by common ownership or  
109 affiliated by corporate control, if the person acting as a debt  
110 collector for persons to whom it is so related or affiliated and  
111 if the principal business of such persons is not the collection  
112 of debts;

113 (c) An ~~Any~~ officer or employee of any federal, state, or  
114 local governmental body ~~to the extent that~~ collecting or



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115 attempting to collect any debt ~~is~~ in the performance of her or  
116 his official duties;

117 (d) A Any person ~~while~~ serving or attempting to serve legal  
118 process on another ~~any other~~ person in connection with the  
119 judicial enforcement of a any debt;

120 (e) A Any not-for-profit organization that ~~which~~, at the  
121 request of consumers, performs bona fide consumer credit  
122 counseling and assists consumers in the liquidation of their  
123 debts by receiving payments from such consumers and distributing  
124 such payments ~~amounts~~ to creditors; ~~or~~

125 (f) A Any person collecting or attempting to collect any  
126 debt if ~~owed or due or asserted to be owed or due~~ another ~~to the~~  
127 ~~extent that~~ such activity is incidental to a bona fide fiduciary  
128 obligation or a bona fide escrow arrangement; concerns a debt  
129 that ~~which~~ was originated by such person; concerns a debt that  
130 ~~which~~ was not in default at the time it was obtained by such  
131 person; or concerns a debt obtained by such person as a secured  
132 party in a commercial credit transaction involving the creditor;  
133 or-

134 (g) An attorney licensed to practice law in this state who  
135 is collecting a debt asserted to be owed or due another as an  
136 ancillary matter to her or his representation of the debt  
137 collector as a client.

138 (4)-(7) "Consumer collection agency" means a any debt  
139 collector or business entity, employing one or more debt  
140 collectors, which is engaged in the business of soliciting  
141 consumer debts for collection or of collecting consumer debts,  
142 ~~which debt collector or business is not expressly exempted as~~  
143 ~~set forth in s. 559.553(4).~~



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144       (5) "Control person" means an individual, partnership,  
145 corporation, trust, or other organization that possesses the  
146 power, directly or indirectly, to direct the management or  
147 policies of a company, whether through ownership of securities,  
148 by contract, or otherwise. The term includes, but is not limited  
149 to:

150       (a) A company's executive officers, including the  
151 president, chief executive officer, chief financial officer,  
152 chief operations officer, chief legal officer, chief compliance  
153 officer, director, or other individual having similar status or  
154 functions.

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

159       (c) For a partnership, all general partners and limited or  
160 special partners who have contributed 10 percent or more, or who  
161 have the right to receive upon dissolution 10 percent or more,  
162 of the partnership's capital.

163       (d) For a trust, each trustee.

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

168       ~~(8) "Out of state consumer debt collector" means any person~~  
169 ~~whose business activities in this state involve both collecting~~  
170 ~~or attempting to collect consumer debt from debtors located in~~  
171 ~~this state by means of interstate communication originating from~~  
172 ~~outside this state and soliciting consumer debt accounts for~~



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173 ~~collection from creditors who have a business presence in this~~  
174 ~~state. For purposes of this subsection, a creditor has a~~  
175 ~~business presence in this state if either the creditor or an~~  
176 ~~affiliate or subsidiary of the creditor has an office in this~~  
177 ~~state.~~

178 (9) "Federal Fair Debt Collection Practices Act" ~~or~~  
179 ~~"Federal Act"~~ means the federal legislation regulating fair debt  
180 collection practices, ~~as set forth in Pub. L. No. 95-109, as~~  
181 ~~amended and published in 15 U.S.C. ss. 1692 et seq.~~

182 (10) "Location information" means a consumer's place of  
183 residence and his or her telephone number, or the consumer's  
184 place of employment.

185 Section 2. Section 559.551, Florida Statutes, is amended to  
186 read:

187 559.551 Short title. ~~This part Sections 559.55-559.785~~ may  
188 be cited as the "Florida Consumer Collection Practices Act."

189 Section 3. Section 559.552, Florida Statutes, is amended to  
190 read:

191 559.552 Relationship of state and federal law. ~~Nothing in~~  
192 ~~This part~~ does not shall be construed to limit or restrict the  
193 continued applicability of the federal Fair Debt Collection  
194 Practices Act to consumer collection practices in this state  
195 ~~and. This part~~ is in addition to the requirements and  
196 regulations of the federal act. If there is In the event of any  
197 inconsistency between ~~any provision of~~ this part and ~~any~~  
198 ~~provision of~~ the federal act, the provision that which is more  
199 protective of the consumer prevails or debtor shall prevail.

200 Section 4. Section 559.5522, Florida Statutes, is created  
201 to read:



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202           559.5522 Powers and duties of the Office of Financial  
203 Regulation; fees.-

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

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

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

213           Section 5. Section 559.5524, Florida Statutes, is created  
214 to read:

215           559.5524 Rules.-The commission may adopt rules to  
216 administer this part, including rules:

217           (1) Requiring electronic submission of any forms,  
218 documents, or fees required under this part.

219           (2) Establishing time periods during which an applicant for  
220 registration is barred from registration or a registered  
221 consumer collection agency is barred from renewal due to prior  
222 criminal convictions of, or guilty or nolo contendere pleas by,  
223 any of the applicant's or registrant's control persons,  
224 regardless of adjudication.

225           (a) The rules must provide:

226           1. Permanent bars for felonies involving money laundering,  
227 breach of trust, dishonesty, embezzlement, fraud, fraudulent  
228 conversion, misappropriation of property, racketeering, or  
229 theft;

230           2. A 15-year disqualifying period for felonies involving





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231 moral turpitude;

232 3. A 7-year disqualifying period for all other felonies;  
233 and

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

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

240 (c) The rules may provide for mitigating factors for crimes  
241 identified in subparagraph (a)2. However, the mitigation may not  
242 result in a period of disqualification less than 7 years. The  
243 rule may not mitigate the disqualifying periods in subparagraphs  
244 (a)1., (a)3., and (a)4.

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

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

249 Section 6. Section 599.553, Florida Statutes, is amended to  
250 read:

251 599.553 Registration of consumer collection agencies  
252 required; ~~exemptions.~~—

253 ~~(1) A~~ After January 1, 1994, No person may not shall engage  
254 in business in this state as a consumer collection agency or act  
255 as, advertise, or hold themselves out as a consumer collection  
256 agency ~~continue to do business in this state as a consumer~~  
257 ~~collection agency~~ without first registering in accordance with  
258 this part, ~~and thereafter maintaining a valid registration. This~~  
259 applies to a consumer collection agency operating in this state



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260 or from another state, regardless of whether such agency is  
261 registered, licensed, or the equivalent in accordance with the  
262 laws of another state.

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

266 ~~(3) A prospective registrant shall be entitled to be~~  
267 ~~registered when registration information is complete on its face~~  
268 ~~and the applicable registration fee has been paid; however, the~~  
269 ~~office may reject a registration submitted by a prospective~~  
270 ~~registrant if the registrant or any principal of the registrant~~  
271 ~~previously has held any professional license or state~~  
272 ~~registration which was the subject of any suspension or~~  
273 ~~revocation which has not been explained by the prospective~~  
274 ~~registrant to the satisfaction of the office either in the~~  
275 ~~registration information submitted initially or upon the~~  
276 ~~subsequent written request of the office. In the event that an~~  
277 ~~attempted registration is rejected by the office the prospective~~  
278 ~~registrant shall be informed of the basis for rejection.~~

279 ~~(4) This section shall not apply to:~~

280 ~~(a) Any original creditor.~~

281 ~~(b) Any member of The Florida Bar.~~

282 ~~(c) Any financial institution authorized to do business in~~  
283 ~~this state and any wholly owned subsidiary and affiliate~~  
284 ~~thereof.~~

285 ~~(d) Any licensed real estate broker.~~

286 ~~(e) Any insurance company authorized to do business in this~~  
287 ~~state.~~

288 ~~(f) Any consumer finance company and any wholly owned~~



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289 ~~subsidiary and affiliate thereof.~~

290 ~~(g) Any person licensed pursuant to chapter 520.~~

291 ~~(h) Any out of state consumer debt collector who does not~~  
292 ~~solicit consumer debt accounts for collection from credit~~  
293 ~~grantors who have a business presence in this state.~~

294 ~~(i) Any FDIC-insured institution or subsidiary or affiliate~~  
295 ~~thereof.~~

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

301 Section 7. Section 559.555, Florida Statutes, is amended to  
302 read:

303 (Substantial rewording of section. See  
304 s. 559.555, F.S., for present text.)

305 559.555 Registration of consumer collection agency.-

306 (1) Effective April 1, 2011, each person who acts as a  
307 consumer collection agency must be registered in accordance with  
308 this section.

309 (2) In order to apply for registration, an applicant must  
310 submit:

311 (a) A completed registration application form as prescribed  
312 by commission rule which includes the name and principal  
313 business address and e-mail address of the consumer collection  
314 agency.

315 (b) A nonrefundable registration fee of \$600. The  
316 registration fee is nonrefundable and may not be prorated for a  
317 partial year of registration.



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318           (c) Fingerprints for the applicant and each of the  
319 applicant's control persons in accordance with rules adopted by  
320 the commission.

321           1. The fingerprints may be submitted to the office, or a  
322 vendor acting on behalf of the office.

323           2. The office may contract with a third-party vendor to  
324 provide live-scan fingerprinting in lieu of a paper fingerprint  
325 card.

326           3. A state criminal history background check must be  
327 conducted through the Department of Law Enforcement, and a  
328 federal criminal history background check must be conducted  
329 through the Federal Bureau of Investigation.

330           4. All fingerprints submitted to the Department of Law  
331 Enforcement must be submitted electronically and entered into  
332 the statewide automated fingerprint identification system  
333 established in s. 943.05(2) (b) and available for use in  
334 accordance with s. 943.05(2) (g) and (h). The office shall pay an  
335 annual fee to the department to participate in the system and  
336 inform the department of any person whose fingerprints are no  
337 longer required to be retained.

338           5. The costs of fingerprint processing, including the cost  
339 of retaining the fingerprints, shall be borne by the person  
340 subject to the background check.

341           6. The office is responsible for reviewing the results of  
342 the state and federal criminal history checks and determining  
343 whether the applicant meets registration requirements.

344           (d) Documentation demonstrating that the surety bond  
345 requirements specified in s. 559.5554 have been satisfied.

346           (e) Additional information or documentation requested by



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347 the office and required by rule concerning the applicant or a  
348 control person of the applicant. Additional information may  
349 include documentation of pending and prior disciplinary and  
350 criminal history events, including arrest reports and certified  
351 copies of charging documents, plea agreements, judgments and  
352 sentencing documents, documents relating to pretrial  
353 intervention, orders terminating probation or supervised  
354 release, final administrative agency orders, or other comparable  
355 documents that may provide the office with the appropriate  
356 information to determine eligibility for registration.

357 (3) An application is considered received for the purposes  
358 of s. 120.60 upon the office's receipt of the completed  
359 application form, required documentation, criminal history  
360 information, the registration application fee, and all  
361 applicable fingerprinting processing fees.

362 (4) The office shall issue a consumer collection agency  
363 registration to each applicant who is not otherwise ineligible  
364 and who meets the requirements of this section. However, it is a  
365 ground for denial of registration if the applicant or one of the  
366 applicant's control persons:

367 (a) Has been found guilty of, regardless of adjudication,  
368 or has entered a plea of nolo contendere or guilty to, any  
369 felony, any crime involving racketeering, fraud, theft,  
370 embezzlement, fraudulent conversion, misappropriation of  
371 property, breach of trust, dishonesty, or any other act of moral  
372 turpitude;

373 (b) Has committed any violation specified in s. 559.72;

374 (c) Is the subject of a pending felony criminal prosecution  
375 or a prosecution or an administrative enforcement action, in any



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376 jurisdiction, which involves racketeering, fraud, embezzlement,  
377 fraudulent conversion, misappropriation of property, theft,  
378 dishonesty, breach of trust, or any other act of moral  
379 turpitude;

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

383 (e) Makes a material misstatement on any form, document, or  
384 record required to be submitted under this part or the rules of  
385 the commission; or

386 (f) Has been the subject of any decision, finding,  
387 injunction, suspension, prohibition, revocation, denial,  
388 judgment, or other adverse action by any state or federal  
389 agency.

390 (5) A registration issued under this section expires  
391 annually on March 31 unless canceled, suspended, revoked, or  
392 otherwise terminated, and must be renewed as provided under s.  
393 559.5551.

394 Section 8. Section 559.5551, Florida Statutes, is created  
395 to read:

396 559.5551 Registration renewal.—

397 (1) To renew a consumer collection agency registration, the  
398 agency must submit:

399 (a) A completed registration renewal form as prescribed by  
400 commission rule.

401 (b) Fingerprints in accordance with s. 559.555 for any new  
402 control persons who have not previously been screened.

403 (c) Any additional information or documentation requested  
404 by the office and required by rule concerning the registrant or



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405 control person of the registrant. Additional information may  
406 include documentation of any pending and prior disciplinary and  
407 criminal history events, including arrest reports and certified  
408 copies of charging documents, plea agreements, judgments and  
409 sentencing documents, documents relating to pretrial  
410 intervention, orders terminating probation or supervised  
411 release, final administrative agency orders, or other comparable  
412 documents that may provide the office with the appropriate  
413 information to determine edibility for renewal of registration.

414 (d) A nonrefundable renewal fee of \$600 and nonrefundable  
415 fee to cover the cost of further fingerprint processing and  
416 retention as set forth in commission rule.

417 (2) The office may not renew a consumer collection agency  
418 registration unless the registrant continues to meet the minimum  
419 requirements for initial registration under s. 559.555 and  
420 adopted rule.

421 Section 9. Section 559.5554, Florida Statutes, is created  
422 to read:

423 559.5554 Surety bond.-

424 (1) Pursuant to an application for registration and renewal  
425 under this part, an applicant must obtain and maintain a surety  
426 bond from a surety company authorized to do business in this  
427 state. The amount and form of the bond shall be specified by  
428 rule and must be at least \$50,000 but may not exceed \$1 million.  
429 The rule must provide allowances for business volume. The bond  
430 shall be in favor of the state for the use and benefit of any  
431 consumer who suffers or sustains any loss or damage by reason of  
432 any violation of this part.

433 (2) Pursuant to initial registration and renewal, each



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434 applicant shall furnish to the office:

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

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

439 (c) A statement from the surety company that the bond  
440 issued by the surety company meets the requirements of this  
441 part.

442 (3) The liability of the surety company under any bond  
443 issued pursuant to this section may not, in the aggregate,  
444 exceed the amount of the bond regardless of the number or amount  
445 of any claims filed or which might be asserted against the  
446 surety on such bond. If multiple claims are filed which  
447 collectively exceed the amount of the bond, the surety may pay  
448 the full amount of the bond to the office and is not further  
449 liable under the bond. The office shall hold such funds for  
450 distribution to claimants and administratively determine and pay  
451 to each claimant a pro rata share of each valid claim made  
452 within 6 months after the date the first claim is filed against  
453 the surety.

454 Section 10. Section 559.5556, Florida Statutes, is created  
455 to read:

456 559.5556 Maintenance of records.-

457 (1) Each registered consumer collection agency shall  
458 maintain, at the principal place of business designated on the  
459 registration, all books, accounts, records, and documents  
460 necessary to determine the registrant's compliance with this  
461 part.

462 (2) The office may authorize the maintenance of records at





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463 a location other than a principal place of business. The office  
464 may require books, accounts, and records to be produced and  
465 available at a reasonable and convenient location in this state.

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

470 (4) All books, accounts, records, documents, and receipts  
471 of any debt collection transaction must be preserved and kept  
472 available for inspection by the office for at least 5 years  
473 after the date the transaction is completed. The commission may  
474 prescribe by rule requirements for the destruction of books,  
475 accounts, records, and documents retained by the registrant  
476 after the completion of the 5 years.

477 Section 11. Section 559.563, Florida Statutes, is repealed.

478 Section 12. Section 559.565, Florida Statutes, is amended  
479 to read:

480 559.565 Enforcement action against an unregistered against  
481 out-of-state consumer collection agency debt collector.--The  
482 remedies of this section are cumulative to other sanctions and  
483 enforcement provisions of this part for any violation by a an  
484 out-of-state consumer collection agency debt collector, as  
485 defined in s. 559.55(8).

486 (1) A ~~Any out-of-state~~ consumer collection agency that is  
487 required to be registered and that ~~debt collector who~~ collects  
488 or attempts to collect consumer debts ~~in this state~~ without  
489 first registering in accordance with this part, or a debt  
490 collector who violates s. 559.72(1)(n), is ~~shall be~~ subject to  
491 an administrative fine of up to \$25,000, plus ~~not to exceed~~



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492 ~~\$1,000 together with~~ reasonable attorney fees and court costs,  
493 in any successful action by the state to collect such fines.

494 ~~(2) Any person, whether or not exempt from registration~~  
495 ~~under this part, who violates the provisions of s. 559.72 shall~~  
496 ~~be subject to sanctions for such violations the same as any~~  
497 ~~other consumer debt collector, including imposition of an~~  
498 ~~administrative fine. The registration of a duly registered out-~~  
499 ~~of-state consumer debt collector shall be subject to revocation~~  
500 ~~or suspension in the same manner as the registration of any~~  
501 ~~other registrant under this part.~~

502 ~~(2)(3)~~ In order to effectuate the provisions of this  
503 section and enforce the requirements of this part as it relates  
504 to an out-of-state consumer collection agency debt collectors,  
505 the Attorney General is expressly authorized to investigate and  
506 enforce violations of this part initiate such action on behalf  
507 of the state ~~as he or she deems appropriate~~ in any state court  
508 or federal district court, as appropriate, including an action  
509 for injunctive relief and monetary relief on behalf of  
510 consumers, and all other relief provided under this part of  
511 competent jurisdiction. The Attorney General may recover  
512 attorney's fees and costs resulting from such actions.

513 Section 13. Section 559.566, Florida Statutes, is created  
514 to read:

515 559.566 Communication.-

516 (1) In the course of any communication by a debt collector  
517 with any person other than the consumer for the purpose of  
518 acquiring location information about the consumer, the debt  
519 collector must:

520 (a) Identify himself or herself, state that he or she is



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521 confirming or correcting location information concerning the  
522 consumer, and, only if expressly requested, identify his or her  
523 employer;

524 (b) Not state that such consumer owes any debt;

525 (c) Not communicate with such person more than once unless  
526 requested to do so by such person or unless the debt collector  
527 reasonably believes that the earlier response of such person is  
528 erroneous or incomplete and that such person now has correct or  
529 complete location information;

530 (d) Not communicate by post card; and

531 (e) Not use any language or symbol on any envelope or in  
532 the contents of any communication effected by the mails or  
533 telegram which indicates that the debt collector is in the debt  
534 collection business or that the communication relates to the  
535 collection of a debt.

536 (2) Without the prior consent of the consumer given  
537 directly to the debt collector or pursuant to express court  
538 permission, a debt collector may not communicate with a consumer  
539 in connection with the collection of any debt:

540 (a) At any unusual time or place or a time or place that is  
541 known or should be known to be inconvenient to the consumer. In  
542 the absence of knowledge to the contrary, a debt collector shall  
543 assume that the convenient time for communicating with a  
544 consumer is after 8 a.m. and before 9 p.m. local time at the  
545 consumer's location.

546 1. A debt collector may presume that the time a telephone  
547 call is received conforms to the local time zone assigned to the  
548 area code of the number called, unless the debt collector  
549 reasonably believe that the consumer's telephone is located in a



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550 different time zone.

551 2. If, such as with toll-free numbers, an area code is not  
552 assigned to a specific geographic area, a debt collector may  
553 presume that the time a telephone call is received conforms to  
554 the local time zone of the consumer's last known place of  
555 residence, unless the debt collector reasonably believes that  
556 the consumer's telephone is located in a different time zone;

557 (b) If the debt collector knows the consumer is represented  
558 by an attorney with respect to such debt and has knowledge of,  
559 or can readily ascertain, such attorney's name and address;  
560 however, the debt collector may communicate with the consumer if  
561 the attorney fails to respond within 30 days after receiving a  
562 written communication from the debt collector regarding the debt  
563 or the attorney consents to direct communication with the  
564 consumer; or

565 (c) At the consumer's place of employment if the debt  
566 collector knows or has reason to know that the consumer's  
567 employer prohibits the consumer from receiving such  
568 communication at his or her place of employment.

569 (3) Except as provided in subsection (1), without the prior  
570 consent of the consumer given directly to the debt collector,  
571 pursuant to express court permission, or as reasonably necessary  
572 to effectuate a postjudgment judicial remedy, a debt collector  
573 may not communicate with any person other than a consumer, his  
574 or her attorney, a consumer reporting agency if otherwise  
575 permitted by law, the creditor, the attorney of the creditor, or  
576 the attorney of the debt collector in connection with the  
577 collection of a debt.

578 (4) If a consumer notifies a debt collector in writing that



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579 the consumer refuses to pay a debt or that the consumer wishes  
580 the debt collector to cease further communication with the  
581 consumer, the debt collector may not communicate further with  
582 the consumer with respect to such debt, except to:

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

585 (b) Notify the consumer that the debt collector or creditor  
586 may invoke specified remedies that are ordinarily invoked by  
587 such debt collector or creditor; or

588 (c) Notify the consumer that the debt collector or creditor  
589 intends to invoke a specified remedy, where applicable. If such  
590 notice from the consumer is made by mail, notification is  
591 complete upon receipt.

592 (5) For the purpose of this section, the term "consumer"  
593 includes the consumer's spouse, guardian, executor, or  
594 administrator, or, if the consumer is a minor, a parent.

595 Section 14. Section 559.715, Florida Statutes, is amended  
596 to read:

597 559.715 Assignment of consumer debts.—This part does not  
598 prohibit the assignment, by a creditor, of the right to bill and  
599 collect a consumer debt. However, the assignee must give the  
600 consumer ~~debtor~~ written notice of such assignment within 30 days  
601 after the assignment. The assignee is a real party in interest  
602 and may bring an action in a court of competent jurisdiction to  
603 collect a debt that has been assigned to the ~~such~~ assignee and  
604 is in default.

605 Section 15. Section 559.72, Florida Statutes, is amended to  
606 read:

607 559.72 Prohibited practices ~~generally~~.—



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608           (1) In collecting consumer debts, a debt collector may not  
609 ~~no person shall:~~

610           (a) Violate the communication requirements of s. 559.566.

611           (b)(1) Simulate in any manner a law enforcement officer or  
612 a representative of any governmental agency.†

613           ~~(2) Use or threaten force or violence;~~

614           (c)(3) Tell a consumer debtor who disputes a consumer debt  
615 that she or he or any person employing her or him will disclose  
616 to another, orally or in writing, directly or indirectly,  
617 information affecting the consumer's debtor's reputation for  
618 credit worthiness without also informing the consumer debtor  
619 that the existence of the dispute will also be disclosed as  
620 required by paragraph (f). subsection (6);†

621           (d)(4) Communicate or threaten to communicate with a  
622 consumer's debtor's employer before prior to obtaining final  
623 judgment against the consumer debtor, unless the consumer debtor  
624 gives her or his permission in writing to contact her or his  
625 employer or acknowledges in writing the existence of the debt  
626 after the debt has been placed for collection. However, but this  
627 does shall not prohibit a person from telling the consumer  
628 debtor that her or his employer will be contacted if a final  
629 judgment is obtained.†

630           (e)(5) Disclose to a person other than the consumer debtor  
631 or her or his family information affecting the consumer's  
632 debtor's reputation, whether or not for credit worthiness, with  
633 knowledge or reason to know that the other person does not have  
634 a legitimate business need for the information or that the  
635 information is false.†

636           (f)(6) Disclose information concerning the existence of a



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637 debt known to be reasonably disputed by the consumer debtor  
638 without disclosing that fact. If a disclosure is made before  
639 ~~prior to~~ such ~~reasonable~~ dispute has ~~having~~ been asserted and  
640 written notice is received from the consumer debtor that any  
641 part of the debt is disputed, and if such dispute is reasonable,  
642 the person who made the original disclosure must ~~shall~~ reveal  
643 upon the request of the consumer debtor within 30 days the  
644 details of the dispute to each person to whom disclosure of the  
645 debt without notice of the dispute was made within the preceding  
646 90 days.†

647 (g) Engage in any conduct the natural consequence of which  
648 is to harass, oppress, or abuse any person in connection with  
649 the collection of a debt, which includes, but is not limited to:

650 1. The use or threat of the use of violence or other  
651 criminal means to harm the physical person, reputation, or  
652 property of any person.

653 2. The use of obscene or profane language or language the  
654 natural consequence of which is to abuse the hearer or reader.

655 3. The publication of a list of consumers who allegedly  
656 refuse to pay debts, except to a consumer reporting agency.

657 4. The advertisement for sale of any debt to coerce payment  
658 of the debt.

659 5. Causing a telephone to ring or engaging any person in  
660 telephone conversation repeatedly or continuously with intent to  
661 annoy, abuse, or harass any person at the called number.

662 6. Except as provided in s. 559.566(1), the placement of  
663 telephone calls without meaningful disclosure of the caller's  
664 identity.

665 ~~(7) Willfully communicate with the debtor or any member of~~



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666 ~~her or his family with such frequency as can reasonably be~~  
667 ~~expected to harass the debtor or her or his family, or willfully~~  
668 ~~engage in other conduct which can reasonably be expected to~~  
669 ~~abuse or harass the debtor or any member of her or his family;~~

670 ~~(8) Use profane, obscene, vulgar, or willfully abusive~~  
671 ~~language in communicating with the debtor or any member of her~~  
672 ~~or his family;~~

673 ~~(h)(9) Claim, attempt, or threaten to enforce a debt when~~  
674 ~~such person knows that the debt is not legitimate, or assert the~~  
675 ~~existence of some other legal right when such person knows that~~  
676 ~~the right does not exist.~~

677 ~~(i)(10) Use a communication that which simulates in any~~  
678 ~~manner legal or judicial process or that which gives the~~  
679 ~~appearance of being authorized, issued, or approved by a~~  
680 ~~government, governmental agency, or attorney at law, when it is~~  
681 ~~not.~~

682 ~~(j)(11) Communicate with a consumer debtor under the guise~~  
683 ~~of an attorney by using the stationery of an attorney or forms~~  
684 ~~or instruments that which only attorneys are authorized to~~  
685 ~~prepare.~~

686 ~~(k)(12) Orally communicate with a consumer debtor in such a~~  
687 ~~manner as to give the false impression or appearance that such~~  
688 ~~person is or is associated with an attorney.~~

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

692 ~~(14) Publish or post, threaten to publish or post, or cause~~  
693 ~~to be published or posted before the general public individual~~  
694 ~~names or any list of names of debtors, commonly known as a~~





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695 ~~deadbeat list, for the purpose of enforcing or attempting to~~  
696 ~~enforce collection of consumer debts;~~

697 (1) ~~(15)~~ Refuse to provide adequate identification of  
698 herself or himself or her or his employer or other entity whom  
699 she or he represents when requested to do so by a consumer  
700 ~~debtor~~ from whom she or he is collecting or attempting to  
701 collect a consumer debt.†

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

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

710 ~~(18) Communicate with a debtor if the person knows that the~~  
711 ~~debtor is represented by an attorney with respect to such debt~~  
712 ~~and has knowledge of, or can readily ascertain, such attorney's~~  
713 ~~name and address, unless the debtor's attorney fails to respond~~  
714 ~~within a reasonable period of time to a communication from the~~  
715 ~~person, unless the debtor's attorney consents to a direct~~  
716 ~~communication with the debtor, or unless the debtor initiates~~  
717 ~~the communication; or~~

718 (m) ~~(19)~~ Cause a consumer to be charged ~~charges to be made~~  
719 ~~to any debtor for communications by~~ concealing ~~concealment of~~  
720 the true purpose of the communication, including collect  
721 telephone calls and telegram fees.

722 (n) Act as a debt collector unless he or she is an employee  
723 or a control person of a consumer collection agency registered



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724 under this part.

725 (2) The office may take any actions permitted under s.  
726 559.730 if the consumer collection agency:

727 (a) Has been found guilty of, regardless of adjudication,  
728 or has entered a plea of nolo contendere or guilty to, any  
729 felony, any crime involving racketeering, fraud, breach of  
730 trust, theft, embezzlement, fraudulent conversion,  
731 misappropriation of property, dishonesty, or any other acts of  
732 moral turpitude.

733 (b) Fails to maintain the surety bond required pursuant to  
734 s. 559.5554.

735 (c) Fails to maintain books, records, or other documents  
736 required by this part and the rules of the commission.

737 (d) Fails to permit an investigation of books and records  
738 by the office, or fails to comply with an office subpoena or  
739 subpoena duces tecum.

740 (e) Fails to report on a form prescribed by commission rule  
741 any change to information contained in any initial application  
742 form or any amendment to the application within 30 days after  
743 the change is effective.

744 (f) Fails to comply with any rule or order adopted pursuant  
745 to this part, or any written agreement entered into with the  
746 office.

747 (g) Fails to comply with, or violates, any other provision  
748 of this part.

749 (h) Pays the office any fee, fine, or other amount with a  
750 check or electronic transmission of funds which fails to clear  
751 the applicant's or registrant's financial institution.

752 (i) Makes a material misstatement on any form, document, or



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753 record required to be submitted under this part or the rules of  
754 the commission.

755 (j) Has been the subject of any decision, finding,  
756 injunction, suspension, prohibition, revocation, denial,  
757 judgment, or other adverse action by any state or federal  
758 agency.

759 (3) A violation of this section by a control person,  
760 employee, or agent of a consumer collection agency shall be  
761 treated as a violation by the consumer collection agency.

762 Section 16. Section 559.725, Florida Statutes, is amended  
763 to read:

764 559.725 Consumer complaints; administrative duties.—

765 (1) ~~The office division of Consumer Services of the~~  
766 ~~department of Financial Services shall receive and maintain~~  
767 ~~serve as the registry for receiving and maintaining records of~~  
768 ~~inquiries, correspondence, and complaints from consumers~~  
769 ~~concerning any and all persons who collect debts, including~~  
770 ~~consumer collection agencies.~~

771 ~~(2) The division shall classify complaints by type and~~  
772 ~~identify the number of written complaints against persons~~  
773 ~~collecting or attempting to collect debts in this state,~~  
774 ~~including credit grantors collecting their own debts, debt~~  
775 ~~collectors generally, and, specifically, consumer collection~~  
776 ~~agencies as distinguished from other persons who collect debts~~  
777 ~~such as commercial debt collection agencies regulated under part~~  
778 ~~V of this chapter. The division shall identify the nature and~~  
779 ~~number of various kinds of written complaints, including~~  
780 ~~specifically those alleging violations of s. 559.72.~~

781 (2)(3) The office division shall inform and furnish



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782 relevant information to the appropriate regulatory body of the  
783 state or the Federal Government, or The Florida Bar in the case  
784 of attorneys, if a person ~~when any consumer debt collector~~  
785 ~~exempt from registration under this part~~ has been named in a  
786 ~~five or more written~~ consumer complaint ~~complaints~~ alleging  
787 violations of s. 559.72 ~~within a 12-month period~~.

788 ~~(4) The division shall furnish a form to each complainant~~  
789 ~~whose complaint concerns an alleged violation of s. 559.72 by a~~  
790 ~~consumer collection agency. Such form may be filed with the~~  
791 ~~office. The form shall identify the accused consumer collection~~  
792 ~~agency and provide for the complainant's summary of the nature~~  
793 ~~of the alleged violation and facts which allegedly support the~~  
794 ~~complaint. The form shall include a provision for the~~  
795 ~~complainant to state under oath before a notary public that the~~  
796 ~~allegations therein made are true.~~

797 ~~(5) Upon receipt of such sworn complaint, the office shall~~  
798 ~~promptly furnish a copy of the sworn complaint to the accused~~  
799 ~~consumer collection agency.~~

800 ~~(3)-(6)~~ The office shall investigate ~~sworn~~ complaints by  
801 ~~direct written communication with the complainant and the~~  
802 ~~affected consumer collection agency. In addition, the office~~  
803 ~~shall attempt to resolve each sworn complaint and shall record~~  
804 ~~the resolution of such complaints.~~

805 ~~(7) Periodically, the office shall identify consumer~~  
806 ~~collection agencies that have unresolved sworn consumer~~  
807 ~~complaints from five or more different consumers within a 12-~~  
808 ~~month period under the provisions of this part.~~

809 ~~(8) The office shall issue a written warning notice to the~~  
810 ~~accused consumer collection agency if the office is unable to~~



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811 ~~resolve all such sworn complaints and fewer than five unresolved~~  
812 ~~complaints remain. Such notice shall include a statement that~~  
813 ~~the warning may constitute evidence in any future investigation~~  
814 ~~of similar complaints against that agency and in any future~~  
815 ~~administrative determination of the imposition of other~~  
816 ~~administrative remedies available to the office under this part.~~

817 ~~(9) The office may issue a written reprimand when five or~~  
818 ~~more such unresolved sworn complaints against a consumer~~  
819 ~~collection agency collectively fall short of constituting~~  
820 ~~apparent repeated violations that warrant more serious~~  
821 ~~administrative sanctions. Such reprimand shall include a~~  
822 ~~statement that the reprimand may constitute evidence in any~~  
823 ~~future investigation of similar complaints against that agency~~  
824 ~~and in any future administrative determination of the imposition~~  
825 ~~of other administrative remedies available to the office.~~

826 ~~(10) The office shall issue a notice of intent either to~~  
827 ~~revoke or suspend the registration or to impose an~~  
828 ~~administrative fine when the office preliminarily determines~~  
829 ~~that repeated violations of s. 559.72 by an accused registrant~~  
830 ~~have occurred which would warrant more serious administrative~~  
831 ~~sanctions being imposed under this part. The office shall advise~~  
832 ~~each registrant of the right to require an administrative~~  
833 ~~hearing under chapter 120, prior to the agency's final action on~~  
834 ~~the matter as authorized by s. 559.730.~~

835 ~~(4) (11) The office shall advise the appropriate state~~  
836 ~~attorney, or the Attorney General in the case of an out-of-state~~  
837 ~~consumer debt collector, of any determination by the office of a~~  
838 ~~violation of the requirements of this part by any consumer~~  
839 ~~collection agency that ~~which~~ is not registered as required by~~



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840 this part. The office shall furnish the state attorney or  
841 Attorney General with the office's information concerning the  
842 alleged violations of such requirements.

843 (5) A registered consumer collection agency must provide a  
844 written response to the office within 20 days after receipt of a  
845 written request from the office for information concerning a  
846 consumer complaint. The response must address the issues and  
847 allegations raised in the complaint. The office may impose an  
848 administrative fine of up to \$2,500 per request per day upon any  
849 registrant that fails to comply with this subsection.

850 Section 17. Section 559.726, Florida Statutes, is created  
851 to read:

852 559.726 Subpoenas.—

853 (1) The office may:

854 (a) Issue and serve subpoenas and subpoenas duces tecum to  
855 compel the attendance of witnesses and the production of all  
856 books, accounts, records, and other documents and materials  
857 relevant to an investigation conducted by the office. The  
858 office, or its authorized representative, may administer oaths  
859 and affirmations to any person.

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

865 (2) If there is substantial noncompliance with a subpoena  
866 or subpoena duces tecum issued by the office, the office may  
867 petition the court in the county where the person subpoenaed  
868 resides or has his or her principal place of business for an



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869 order requiring the person to appear, testify, or produce such  
870 books, accounts, records, and other documents as are specified  
871 in the subpoena or subpoena duces tecum.

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

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

883 Section 18. Section 559.727, Florida Statutes, is created  
884 to read:

885 559.727 Cease and desist orders.—The office may issue and  
886 serve upon any person an order to cease and desist and to take  
887 corrective action if it has reason to believe the person is  
888 violating, has violated, or is about to violate any provision of  
889 this part, any rule or order issued under this part, or any  
890 written agreement between the person and the office. All  
891 procedural matters relating to issuance and enforcement of such  
892 order are governed by the Administrative Procedure Act.

893 Section 19. Section 559.730, Florida Statutes, is amended  
894 to read:

895 559.730 Administrative remedies.—

896 (1) The office may impose an administrative fine against,  
897 or revoke or suspend the registration of a ~~any~~ registrant under



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898 this part who has committed a violation of ~~engaged in repeated~~  
899 ~~violations which establish a clear pattern of abuse of~~  
900 ~~prohibited collection practices under s. 559.72. Final office~~  
901 ~~action to~~ fine, suspend, or revoke ~~or suspend~~ the registration  
902 of a any registrant is ~~shall be~~ subject to review in accordance  
903 with chapter 120 ~~in the same manner as revocation of a license.~~  
904 ~~The repeated violations of the law by one employee shall not be~~  
905 ~~grounds for revocation or suspension of the registration of the~~  
906 ~~employing consumer collection agency, unless the employee is~~  
907 ~~also the owner of a majority interest in the collection agency.~~

908 ~~(2) The registration of a registrant shall not be revoked~~  
909 ~~or suspended if the registrant shows by a preponderance of the~~  
910 ~~evidence that the violations were not intentional and resulted~~  
911 ~~from bona fide error notwithstanding the maintenance of~~  
912 ~~procedures reasonably adapted to avoid any such error.~~

913 ~~(3) The office shall consider the number of complaints~~  
914 ~~against the registrant in relation to the accused registrant's~~  
915 ~~volume of business when determining whether suspension or~~  
916 ~~revocation is the more appropriate sanction when circumstances~~  
917 ~~warrant that one or the other should be imposed upon a~~  
918 ~~registrant.~~

919 ~~(2)(4)~~ The office may ~~shall~~ impose suspension rather than  
920 revocation of a registration if ~~when~~ circumstances warrant that  
921 one or the other should be imposed ~~upon a registrant~~ and the  
922 ~~accused~~ registrant demonstrates that the registrant has taken  
923 affirmative steps that ~~which~~ can be expected to effectively  
924 eliminate the ~~repeated~~ violations and that the registrant's  
925 registration has never been previously ~~been~~ suspended.

926 ~~(3)(5)~~ In addition to, or in lieu of suspension or





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927 revocation of a registration, the office may impose an  
928 administrative fine of up to \$25,000 per violation ~~\$1,000~~  
929 against a ~~the~~ offending registrant as a sanction for repeated  
930 violations of ~~the provisions of s. 559.72 when violations do not~~  
931 ~~rise to the level of misconduct governed by subsection (1).~~ The  
932 office shall adopt rules establishing guidelines for imposing  
933 administrative penalties. ~~Final office action to impose an~~  
934 ~~administrative fine shall be subject to review in accordance~~  
935 ~~with ss. 120.569 and 120.57.~~

936 ~~(6) Any administrative fine imposed under this part shall~~  
937 ~~be payable to the office. The office shall maintain an~~  
938 ~~appropriate record and shall deposit such fine into the~~  
939 ~~Regulatory Trust Fund of the office.~~

940 ~~(7) An administrative action by the office to impose~~  
941 ~~revocation, suspension, or fine shall be brought within 2 years~~  
942 ~~after the date of the last violation upon which the action is~~  
943 ~~founded.~~

944 ~~(4)(8) Nothing in This part does not shall be construed to~~  
945 ~~preclude any person from pursuing remedies available under the~~  
946 ~~Federal Fair Debt Collection Practices Act for any violation of~~  
947 ~~such act, including specifically against any person who is~~  
948 ~~exempt from the registration provisions of this part.~~

949 Section 20. Section 559.77, Florida Statutes, is amended to  
950 read:

951 559.77 Civil remedies.-

952 (1) A consumer debtor may bring a civil action against a  
953 debt collector or consumer collection agency, or both, for a  
954 debt collector's violation ~~person violating the provisions of s.~~  
955 559.72(1) ~~559.72 in a court of competent jurisdiction of the~~



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956 county in which the alleged violator resides or has his or her  
957 principal place of business or in the county wherein the alleged  
958 violation occurred.

959 (2) Upon adverse adjudication, the defendant is ~~shall be~~  
960 liable for actual damages and for additional statutory damages  
961 of up to \$1,000, together with court costs and reasonable  
962 attorney's fees incurred by the plaintiff. In determining the  
963 defendant's liability for any additional statutory damages, the  
964 court shall consider the nature of the defendant's noncompliance  
965 with s. 559.72(1) ~~559.72~~, the frequency and persistence of such  
966 noncompliance, and the extent to which such noncompliance was  
967 intentional. In a ~~any~~ class action lawsuit brought under this  
968 section, the court may award additional statutory damages of up  
969 to \$1,000 for each named plaintiff and an aggregate award of  
970 additional statutory damages up ~~not~~ to ~~exceed~~ the lesser of  
971 \$500,000 or 1 percent of the defendant's net worth for all  
972 remaining class members; however, the, ~~but in no event may this~~  
973 aggregate award may not provide an individual class member with  
974 additional statutory damages in excess of \$1,000. The court may~~,~~  
975 ~~in its discretion,~~ award punitive damages and ~~may~~ provide such  
976 equitable relief as it deems necessary or proper, including  
977 enjoining the defendant from further violations of this part. If  
978 the court finds that the suit fails to raise a justiciable issue  
979 of law or fact, the plaintiff is ~~shall be~~ liable for court costs  
980 and reasonable attorney's fees incurred by the defendant.

981 (3) A person may ~~shall~~ not be held liable in any action  
982 brought under this section if the person shows by a  
983 preponderance of the evidence that the violation was not  
984 intentional and resulted from a bona fide error, notwithstanding



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985 the maintenance of procedures reasonably adapted to avoid ~~any~~  
986 such error.

987 (4) An action brought under this section must be commenced  
988 within 2 years after the date of the last violation upon which  
989 the action is founded ~~on which the alleged violation occurred.~~

990 (5) In applying and construing this section, due  
991 consideration and great weight shall be given to the  
992 interpretations of the Federal Trade Commission and the federal  
993 courts relating to the federal Fair Debt Collection Practices  
994 Act.

995 Section 21. Section 559.78, Florida Statutes, is amended to  
996 read:

997 559.78 Judicial enforcement.—In addition to other penalties  
998 provided under ~~in~~ this part, state attorneys and their  
999 assistants may ~~are authorized to~~ apply to the court ~~of competent~~  
1000 ~~jurisdiction~~ within their respective jurisdictions, upon the  
1001 sworn affidavit of any person alleging a violation of any ~~of the~~  
1002 provisions of this part. Such court shall have jurisdiction,  
1003 upon hearing and for cause shown, to grant a temporary or  
1004 permanent injunction restraining any person from violating any  
1005 provision of this part, whether or not there exists an adequate  
1006 remedy at law, ~~+~~ and such injunction, ~~suspension, or revocation~~  
1007 shall issue without bond.

1008 Section 22. Section 559.785, Florida Statutes, is amended  
1009 to read:

1010 559.785 Criminal penalty.—It is a felony of the third ~~shall~~  
1011 ~~be a misdemeanor of the first~~ degree, punishable as provided in  
1012 s. 775.082, ~~or~~ s. 775.083, or s. 775.084, for any person ~~not~~  
1013 ~~exempt from registering as provided in this part~~ to engage in



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1014 collecting consumer debts in this state without first  
1015 registering with the office, or to register or attempt to  
1016 register by means of fraud, misrepresentation, or concealment.

1017 Section 23. Section 559.786, Florida Statutes, is created  
1018 to read:

1019 559.786 Deceptive and unfair trade practices.—A violation  
1020 of this part is a violation of the Florida Deceptive and Unfair  
1021 Trade Practices Act. In addition to any remedies provided under  
1022 this part, violations of this part are subject to the penalties  
1023 and remedies provided under part II of chapter 501.

1024 Section 24. Expiration of registrations.—

1025 (1) Effective October 1, 2010, notwithstanding s.  
1026 559.555(3), Florida Statutes, or any other provision of this  
1027 act, all current registrations of consumer collection agencies  
1028 issued by the Office of Financial Regulation which are due to  
1029 expire between October 1 and December 31, 2010, shall  
1030 permanently expire March 31, 2011. No renewals of such  
1031 registrations are permitted.

1032 (2) Effective January 1, 2011, notwithstanding s.  
1033 559.555(5), as amended by this act, all registrations issued  
1034 between January 1, 2011, and March 31, 2011, expire March 31,  
1035 2012.

1036  
1037 Section 25. Except as otherwise expressly provided in this  
1038 act and except for this section, which shall take effect October  
1039 1, 2010, this act shall take effect January 1, 2011.