

By the Committee on Banking and Insurance; and Senator Richter

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1                   A bill to be entitled  
2           An act relating to consumer debt collection;  
3           reordering and amending s. 559.55, F.S.; revising  
4           definitions relating to the regulation of debt  
5           collection practices; amending s. 559.551, F.S.;  
6           conforming cross-references; amending s. 559.552,  
7           F.S.; revising provisions relating to the relationship  
8           between state and federal law; creating s. 559.5522,  
9           F.S.; providing the powers of the Office of Financial  
10          Regulation; creating s. 559.5524, F.S.; authorizing  
11          the Financial Services Commission to adopt rules;  
12          amending s. 559.553, F.S.; deleting all exemptions  
13          from registration as a consumer collection agency;  
14          amending s. 559.555, F.S.; revising procedures for  
15          registering as a consumer collection agency;  
16          increasing the registration fee; requiring background  
17          screening of applicants and control persons; providing  
18          grounds for registration issuance or denial; requiring  
19          annual renewal; creating s. 559.5551, F.S.; providing  
20          for registration renewal; creating s. 559.5554, F.S.;  
21          requiring a licensee to obtain a surety bond and  
22          provide proof of such bond to the office; creating s.  
23          559.5556, F.S.; requiring a consumer collection agency  
24          to maintain records; repealing s. 559.563, F.S.,  
25          relating to void registrations; amending s. 559.565,  
26          F.S.; increasing the fine against an unregistered  
27          consumer collection agency and adding a fine against  
28          certain debt collectors; providing that a violation of  
29          provisions relating to consumer protection agencies

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

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59 s. 559.785, F.S.; providing criminal penalties for  
60 failure to obtain licensure; delaying the expiration  
61 of certain registrations of consumer collection  
62 agencies; providing effective dates.  
63

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

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

68 559.55 Definitions.—As used in The following terms shall,  
69 ~~unless the context otherwise indicates, have the following~~  
70 ~~meanings for the purpose of this part, the term:~~

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

72 (7)-(1) "Debt" or "consumer debt" means any obligation or  
73 alleged obligation of a consumer to pay money arising out of a  
74 transaction in which the money, property, insurance, or services  
75 that ~~which~~ are the subject of the transaction are primarily for  
76 personal, family, or household purposes, whether or not such  
77 obligation has been reduced to judgment.

78 (3)-(2) "Debtor" or "Consumer" means any natural person  
79 obligated or allegedly obligated to pay any debt.

80 (6)-(3) "Creditor" means any person who offers or extends  
81 credit creating a debt or to whom a debt is owed, but does not  
82 include a any person who receives ~~to the extent that they~~  
83 ~~receive~~ an assignment or transfer of a debt in default solely  
84 for the purpose of facilitating the collection of such debt for  
85 another.

86 (11)-(4) "Office" means the Office of Financial Regulation  
87 of the Financial Services Commission.

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88        (2)~~(5)~~ "Communication" means ~~the~~ conveying ~~of~~ information  
89 regarding a debt, directly or indirectly, to any person through  
90 any medium.

91        (8)~~(6)~~ "Debt collector" means a ~~any~~ person who uses any  
92 instrumentality of commerce within this state or the mails,  
93 whether initiated from within or outside this state, in a ~~any~~  
94 business whose ~~the~~ principal purpose ~~of which~~ is the collection  
95 of debts, or who regularly collects or attempts to collect,  
96 directly or indirectly, debts ~~owed or due or~~ asserted to be owed  
97 or due another. Notwithstanding paragraph (f), the term "~~debt~~  
98 ~~collector~~" includes a ~~any~~ creditor who, in the process of  
99 collecting her or his own debts, uses any name other than her or  
100 his own which indicates ~~would indicate~~ that a third person is  
101 collecting or attempting to collect such debts. The term does  
102 not include:

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

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

112        (c) An ~~Any~~ officer or employee of any federal, state, or  
113 local governmental body ~~to the extent that~~ collecting or  
114 attempting to collect any debt ~~is~~ in the performance of her or  
115 his official duties;

116        (d) A ~~Any~~ person ~~while~~ serving or attempting to serve legal

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117 process on another ~~any other~~ person in connection with the  
118 judicial enforcement of a ~~any~~ debt;

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

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

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

137 (4) ~~(7)~~ "Consumer collection agency" means a ~~any debt~~  
138 ~~collector or~~ business entity, employing one or more debt  
139 collectors, which is engaged in the business of soliciting  
140 consumer debts for collection or ~~of~~ collecting consumer debts,  
141 ~~which debt collector or business is not expressly exempted as~~  
142 ~~set forth in s. 559.553(4).~~

143 (5) "Control person" means an individual, partnership,  
144 corporation, trust, or other organization that possesses the  
145 power, directly or indirectly, to direct the management or

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146 policies of a company, whether through ownership of securities,  
147 by contract, or otherwise. The term includes, but is not limited  
148 to:

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

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

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

162 (d) For a trust, each trustee.

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

167 ~~(8) "Out-of-state consumer debt collector" means any person~~  
168 ~~whose business activities in this state involve both collecting~~  
169 ~~or attempting to collect consumer debt from debtors located in~~  
170 ~~this state by means of interstate communication originating from~~  
171 ~~outside this state and soliciting consumer debt accounts for~~  
172 ~~collection from creditors who have a business presence in this~~  
173 ~~state. For purposes of this subsection, a creditor has a~~  
174 ~~business presence in this state if either the creditor or an~~

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175 ~~affiliate or subsidiary of the creditor has an office in this~~  
176 ~~state.~~

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

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

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

186 559.551 Short title.—This part ~~Sections 559.55-559.785~~ may  
187 be cited as the "Florida Consumer Collection Practices Act."

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

190 559.552 Relationship of state and federal law.—~~Nothing in~~  
191 ~~This part~~ does not ~~shall be construed to~~ limit or restrict the  
192 continued applicability of the federal Fair Debt Collection  
193 Practices Act to consumer collection practices in this state  
194 and. ~~This part~~ is in addition to the requirements and  
195 regulations of the federal act. If there is ~~In the event of~~ any  
196 inconsistency between ~~any provision of~~ this part and ~~any~~  
197 ~~provision of~~ the federal act, the provision that ~~which~~ is more  
198 protective of the consumer prevails ~~or debtor shall prevail.~~

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

201 559.5522 Powers and duties of the Office of Financial  
202 Regulation; fees.—

203 (1) The office is responsible for the administration and

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204 enforcement of this part.

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

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

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

214 559.5524 Rules.—The commission may adopt rules to  
215 administer this part, including rules:

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

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

224 (a) The rules must provide:

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

229 2. A 15-year disqualifying period for felonies involving  
230 moral turpitude;

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



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

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

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

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

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

248 Section 6. Section 59.553, Florida Statutes, is amended to  
249 read:

250 59.553 Registration of consumer collection agencies  
251 required; ~~exemptions.~~

252 ~~(1) A~~ After January 1, 1994, No person may not shall engage  
253 in business in this state as a consumer collection agency or act  
254 as, advertise, or hold themselves out as a consumer collection  
255 agency continue to do business in this state as a consumer  
256 collection agency without first registering in accordance with  
257 this part, and thereafter maintaining a valid registration. This  
258 applies to a consumer collection agency operating in this state  
259 or from another state, regardless of whether such agency is  
260 registered, licensed, or the equivalent in accordance with the  
261 laws of another state.

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

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

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

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

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

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

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

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

287       ~~(f) Any consumer finance company and any wholly owned~~  
288 ~~subsidiary and affiliate thereof.~~

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

290       ~~(h) Any out of state consumer debt collector who does not~~

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291 ~~solicit consumer debt accounts for collection from credit~~  
292 ~~grantors who have a business presence in this state.~~

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

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

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

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

304 559.555 Registration of consumer collection agency.-

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

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

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

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

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

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

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

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

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

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

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

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

345 (e) Additional information or documentation requested by  
346 the office and required by rule concerning the applicant or a  
347 control person of the applicant. Additional information may  
348 include documentation of pending and prior disciplinary and

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349 criminal history events, including arrest reports and certified  
350 copies of charging documents, plea agreements, judgments and  
351 sentencing documents, documents relating to pretrial  
352 intervention, orders terminating probation or supervised  
353 release, final administrative agency orders, or other comparable  
354 documents that may provide the office with the appropriate  
355 information to determine eligibility for registration.

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

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

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

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

373 (c) Is the subject of a pending felony criminal prosecution  
374 or a prosecution or an administrative enforcement action, in any  
375 jurisdiction, which involves racketeering, fraud, embezzlement,  
376 fraudulent conversion, misappropriation of property, theft,  
377 dishonesty, breach of trust, or any other act of moral

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378 turpitude;

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

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

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

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

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

395 559.5551 Registration renewal.—

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

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

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

402 (c) Any additional information or documentation requested  
403 by the office and required by rule concerning the registrant or  
404 control person of the registrant. Additional information may  
405 include documentation of any pending and prior disciplinary and  
406 criminal history events, including arrest reports and certified

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407 copies of charging documents, plea agreements, judgments and  
408 sentencing documents, documents relating to pretrial  
409 intervention, orders terminating probation or supervised  
410 release, final administrative agency orders, or other comparable  
411 documents that may provide the office with the appropriate  
412 information to determine edibility for renewal of registration.

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

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

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

422 559.5554 Surety bond.—

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

432 (2) Pursuant to initial registration and renewal, each  
433 applicant shall furnish to the office:

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

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

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

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

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

455 559.5556 Maintenance of records.-

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

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



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

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

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

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

479 (Substantial rewording of section. See  
480 s. 559.565, F.S., for present text.)

481 559.565 Additional enforcement remedies.—The remedies  
482 provided in this section are cumulative to other enforcement and  
483 sanctions provided under this part for any violation of this  
484 part by a consumer collection agency or a debt collector.

485 (1) A consumer collection agency that is required to be  
486 registered under this part and that collects or attempts to  
487 collect consumer debts without being registered, or a debt  
488 collector who violates s. 559.72(1)(n), is subject to an  
489 administrative fine of up to \$25,000, plus reasonable attorney's  
490 fees and court costs, in any successful action by the state to  
491 collect such fine.

492 (2) A violation of this part is actionable by the Attorney  
493 General as a violation of the Florida Deceptive and Unfair Trade

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494 Practices Act and such violations are subject to the enforcement  
495 remedies and penalties under part II of chapter 501. The  
496 Attorney General may recover attorney's fees and costs resulting  
497 from such actions.

498 Section 13. Section 559.566, Florida Statutes, is created  
499 to read:

500 559.566 Communication.-

501 (1) In the course of any communication by a debt collector  
502 with any person other than the consumer for the purpose of  
503 acquiring location information about the consumer, the debt  
504 collector must:

505 (a) Identify himself or herself, state that he or she is  
506 confirming or correcting location information concerning the  
507 consumer, and, only if expressly requested, identify his or her  
508 employer;

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

510 (c) Not communicate with such person more than once unless  
511 requested to do so by such person or unless the debt collector  
512 reasonably believes that the earlier response of such person is  
513 erroneous or incomplete and that such person now has correct or  
514 complete location information;

515 (d) Not communicate by post card; and

516 (e) Not use any language or symbol on any envelope or in  
517 the contents of any communication effected by the mails or  
518 telegram which indicates that the debt collector is in the debt  
519 collection business or that the communication relates to the  
520 collection of a debt.

521 (2) Without the prior consent of the consumer given  
522 directly to the debt collector or pursuant to express court

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523 permission, a debt collector may not communicate with a consumer  
524 in connection with the collection of any debt:

525 (a) At any unusual time or place or a time or place that is  
526 known or should be known to be inconvenient to the consumer. In  
527 the absence of knowledge to the contrary, a debt collector shall  
528 assume that the convenient time for communicating with a  
529 consumer is after 8 a.m. and before 9 p.m. local time at the  
530 consumer's location.

531 1. A debt collector may presume that the time a telephone  
532 call is received conforms to the local time zone assigned to the  
533 area code of the number called, unless the debt collector  
534 reasonably believe that the consumer's telephone is located in a  
535 different time zone.

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

542 (b) If the debt collector knows the consumer is represented  
543 by an attorney with respect to such debt and has knowledge of,  
544 or can readily ascertain, such attorney's name and address;  
545 however, the debt collector may communicate with the consumer if  
546 the attorney fails to respond within 30 days after receiving a  
547 written communication from the debt collector regarding the debt  
548 or the attorney consents to direct communication with the  
549 consumer; or

550 (c) At the consumer's place of employment if the debt  
551 collector knows or has reason to know that the consumer's

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552 employer prohibits the consumer from receiving such  
553 communication at his or her place of employment.

554 (3) Except as provided in subsection (1), without the prior  
555 consent of the consumer given directly to the debt collector,  
556 pursuant to express court permission, or as reasonably necessary  
557 to effectuate a postjudgment judicial remedy, a debt collector  
558 may not communicate with any person other than a consumer, his  
559 or her attorney, a consumer reporting agency if otherwise  
560 permitted by law, the creditor, the attorney of the creditor, or  
561 the attorney of the debt collector in connection with the  
562 collection of a debt.

563 (4) If a consumer notifies a debt collector in writing that  
564 the consumer refuses to pay a debt or that the consumer wishes  
565 the debt collector to cease further communication with the  
566 consumer, the debt collector may not communicate further with  
567 the consumer with respect to such debt, except to:

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

570 (b) Notify the consumer that the debt collector or creditor  
571 may invoke specified remedies that are ordinarily invoked by  
572 such debt collector or creditor; or

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

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

580 Section 14. Section 559.715, Florida Statutes, is amended

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581 to read:

582       559.715 Assignment of consumer debts.—This part does not  
583 prohibit the assignment, by a creditor, of the right to bill and  
584 collect a consumer debt. However, the assignee must give the  
585 consumer debtor written notice of such assignment within 30 days  
586 after the assignment. The assignee is a real party in interest  
587 and may bring an action in a court of competent jurisdiction to  
588 collect a debt that has been assigned to the ~~such~~ assignee and  
589 is in default.

590       Section 15. Section 559.72, Florida Statutes, is amended to  
591 read:

592       559.72 Prohibited practices generally.—

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

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

596       (b) ~~(1)~~ Simulate in any manner a law enforcement officer or  
597 a representative of any governmental agency. ~~;~~

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

599       (c) ~~(3)~~ Tell a consumer debtor who disputes a consumer debt  
600 that she or he or any person employing her or him will disclose  
601 to another, orally or in writing, directly or indirectly,  
602 information affecting the consumer's debtor's reputation for  
603 credit worthiness without also informing the consumer debtor  
604 that the existence of the dispute will also be disclosed as  
605 required by paragraph (f). ~~subsection (6);~~

606       (d) ~~(4)~~ Communicate or threaten to communicate with a  
607 consumer's debtor's employer before ~~prior to~~ obtaining final  
608 judgment against the consumer debtor, unless the consumer debtor  
609 gives her or his permission in writing to contact her or his

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610 employer or acknowledges in writing the existence of the debt  
611 after the debt has been placed for collection. However, ~~but~~ this  
612 does shall not prohibit a person from telling the consumer  
613 ~~debtor~~ that her or his employer will be contacted if a final  
614 judgment is obtained. †

615 (e) (5) Disclose to a person other than the consumer debtor  
616 or her or his family information affecting the consumer's  
617 ~~debtor's~~ reputation, whether or not for credit worthiness, with  
618 knowledge or reason to know that the other person does not have  
619 a legitimate business need for the information or that the  
620 information is false. †

621 (f) (6) Disclose information concerning the existence of a  
622 debt known to be reasonably disputed by the consumer debtor  
623 without disclosing that fact. If a disclosure is made before  
624 ~~prior to~~ such ~~reasonable~~ dispute has having been asserted and  
625 written notice is received from the consumer debtor that any  
626 part of the debt is disputed, and if such dispute is reasonable,  
627 the person who made the original disclosure must shall reveal  
628 upon the request of the consumer debtor within 30 days the  
629 details of the dispute to each person to whom disclosure of the  
630 debt without notice of the dispute was made within the preceding  
631 90 days. †

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

635 1. The use or threat of the use of violence or other  
636 criminal means to harm the physical person, reputation, or  
637 property of any person.

638 2. The use of obscene or profane language or language the

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639 natural consequence of which is to abuse the hearer or reader.

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

642 4. The advertisement for sale of any debt to coerce payment  
643 of the debt.

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

647 6. Except as provided in s. 559.566(1), the placement of  
648 telephone calls without meaningful disclosure of the caller's  
649 identity.

650 ~~(7) Willfully communicate with the debtor or any member of~~  
651 ~~her or his family with such frequency as can reasonably be~~  
652 ~~expected to harass the debtor or her or his family, or willfully~~  
653 ~~engage in other conduct which can reasonably be expected to~~  
654 ~~abuse or harass the debtor or any member of her or his family;~~

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

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

662 ~~(i)(10) Use a communication that ~~which~~ simulates in any~~  
663 ~~manner legal or judicial process or that ~~which~~ gives the~~  
664 ~~appearance of being authorized, issued, or approved by a~~  
665 ~~government, governmental agency, or attorney at law, when it is~~  
666 ~~not.~~

667 ~~(j)(11) Communicate with a consumer ~~debtor~~ under the guise~~

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668 of an attorney by using the stationery of an attorney or forms  
669 or instruments that ~~which~~ only attorneys are authorized to  
670 prepare.†

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

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

677 ~~(14) Publish or post, threaten to publish or post, or cause  
678 to be published or posted before the general public individual  
679 names or any list of names of debtors, commonly known as a  
680 deadbeat list, for the purpose of enforcing or attempting to  
681 enforce collection of consumer debts;~~

682 (l) ~~(15)~~ Refuse to provide adequate identification of  
683 herself or himself or her or his employer or other entity whom  
684 she or he represents when requested to do so by a consumer  
685 ~~debtor~~ from whom she or he is collecting or attempting to  
686 collect a consumer debt.†

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

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

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



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697 ~~and has knowledge of, or can readily ascertain, such attorney's~~  
698 ~~name and address, unless the debtor's attorney fails to respond~~  
699 ~~within a reasonable period of time to a communication from the~~  
700 ~~person, unless the debtor's attorney consents to a direct~~  
701 ~~communication with the debtor, or unless the debtor initiates~~  
702 ~~the communication; or~~

703 (m) (19) Cause a consumer to be charged charges to be made  
704 to any debtor for communications by concealing concealment of  
705 the true purpose of the communication, including collect  
706 telephone calls and telegram fees.

707 (n) Act as a debt collector unless he or she is an employee  
708 or a control person of a consumer collection agency registered  
709 under this part.

710 (2) The office may take any actions permitted under s.  
711 559.730 if the consumer collection agency:

712 (a) Has been found guilty of, regardless of adjudication,  
713 or has entered a plea of nolo contendere or guilty to, any  
714 felony, any crime involving racketeering, fraud, breach of  
715 trust, theft, embezzlement, fraudulent conversion,  
716 misappropriation of property, dishonesty, or any other acts of  
717 moral turpitude.

718 (b) Fails to maintain the surety bond required pursuant to  
719 s. 559.5554.

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

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

725 (e) Fails to report on a form prescribed by commission rule

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726 any change to information contained in any initial application  
727 form or any amendment to the application within 30 days after  
728 the change is effective.

729 (f) Fails to comply with any rule or order adopted pursuant  
730 to this part, or any written agreement entered into with the  
731 office.

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

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

737 (i) Makes a material misstatement on any form, document, or  
738 record required to be submitted under this part or the rules of  
739 the commission.

740 (j) Has been the subject of any decision, finding,  
741 injunction, suspension, prohibition, revocation, denial,  
742 judgment, or other adverse action by any state or federal  
743 agency.

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

747 Section 16. Section 559.725, Florida Statutes, is amended  
748 to read:

749 559.725 Consumer complaints; administrative duties.—

750 (1) ~~The office division of Consumer Services of the~~  
751 ~~department of Financial Services~~ shall receive and maintain  
752 ~~serve as the registry for receiving and maintaining~~ records of  
753 ~~inquiries,~~ correspondence, and complaints from consumers  
754 concerning any and all persons who collect debts, including

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755 consumer collection agencies.

756 ~~(2) The division shall classify complaints by type and~~  
757 ~~identify the number of written complaints against persons~~  
758 ~~collecting or attempting to collect debts in this state,~~  
759 ~~including credit grantors collecting their own debts, debt~~  
760 ~~collectors generally, and, specifically, consumer collection~~  
761 ~~agencies as distinguished from other persons who collect debts~~  
762 ~~such as commercial debt collection agencies regulated under part~~  
763 ~~V of this chapter. The division shall identify the nature and~~  
764 ~~number of various kinds of written complaints, including~~  
765 ~~specifically those alleging violations of s. 559.72.~~

766 ~~(2)(3)~~ The office ~~division~~ shall inform and furnish  
767 relevant information to the appropriate regulatory body of the  
768 state or the Federal Government, or The Florida Bar in the case  
769 of attorneys, if a person ~~when any consumer debt collector~~  
770 ~~exempt from registration under this part~~ has been named in a  
771 five or more ~~written~~ consumer complaint ~~complaints~~ alleging  
772 violations of s. 559.72 ~~within a 12-month period.~~

773 ~~(4) The division shall furnish a form to each complainant~~  
774 ~~whose complaint concerns an alleged violation of s. 559.72 by a~~  
775 ~~consumer collection agency. Such form may be filed with the~~  
776 ~~office. The form shall identify the accused consumer collection~~  
777 ~~agency and provide for the complainant's summary of the nature~~  
778 ~~of the alleged violation and facts which allegedly support the~~  
779 ~~complaint. The form shall include a provision for the~~  
780 ~~complainant to state under oath before a notary public that the~~  
781 ~~allegations therein made are true.~~

782 ~~(5) Upon receipt of such sworn complaint, the office shall~~  
783 ~~promptly furnish a copy of the sworn complaint to the accused~~

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784 ~~consumer collection agency.~~

785 (3)~~(6)~~ The office shall investigate ~~sworn~~ complaints ~~by~~  
786 ~~direct written communication with the complainant and the~~  
787 ~~affected consumer collection agency. In addition, the office~~  
788 ~~shall attempt to resolve each sworn complaint and shall record~~  
789 ~~the resolution of such complaints.~~

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

794 ~~(8) The office shall issue a written warning notice to the~~  
795 ~~accused consumer collection agency if the office is unable to~~  
796 ~~resolve all such sworn complaints and fewer than five unresolved~~  
797 ~~complaints remain. Such notice shall include a statement that~~  
798 ~~the warning may constitute evidence in any future investigation~~  
799 ~~of similar complaints against that agency and in any future~~  
800 ~~administrative determination of the imposition of other~~  
801 ~~administrative remedies available to the office under this part.~~

802 ~~(9) The office may issue a written reprimand when five or~~  
803 ~~more such unresolved sworn complaints against a consumer~~  
804 ~~collection agency collectively fall short of constituting~~  
805 ~~apparent repeated violations that warrant more serious~~  
806 ~~administrative sanctions. Such reprimand shall include a~~  
807 ~~statement that the reprimand may constitute evidence in any~~  
808 ~~future investigation of similar complaints against that agency~~  
809 ~~and in any future administrative determination of the imposition~~  
810 ~~of other administrative remedies available to the office.~~

811 ~~(10) The office shall issue a notice of intent either to~~  
812 ~~revoke or suspend the registration or to impose an~~

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813 ~~administrative fine when the office preliminarily determines~~  
814 ~~that repeated violations of s. 559.72 by an accused registrant~~  
815 ~~have occurred which would warrant more serious administrative~~  
816 ~~sanctions being imposed under this part. The office shall advise~~  
817 ~~each registrant of the right to require an administrative~~  
818 ~~hearing under chapter 120, prior to the agency's final action on~~  
819 ~~the matter as authorized by s. 559.730.~~

820 (4) ~~(11)~~ The office shall advise the appropriate state  
821 attorney, or the Attorney General ~~in the case of an out-of-state~~  
822 ~~consumer debt collector~~, of any determination by the office of a  
823 violation of ~~the requirements of~~ this part by any consumer  
824 collection agency that ~~which~~ is not registered as required by  
825 this part. The office shall furnish the state attorney or  
826 Attorney General with the office's information concerning the  
827 alleged violations of such requirements.

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

835 Section 17. Section 559.726, Florida Statutes, is created  
836 to read:

837 559.726 Subpoenas.—

838 (1) The office may:

839 (a) Issue and serve subpoenas and subpoenas duces tecum to  
840 compel the attendance of witnesses and the production of all  
841 books, accounts, records, and other documents and materials

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842 relevant to an investigation conducted by the office. The  
843 office, or its authorized representative, may administer oaths  
844 and affirmations to any person.

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

850 (2) If there is substantial noncompliance with a subpoena  
851 or subpoena duces tecum issued by the office, the office may  
852 petition the court in the county where the person subpoenaed  
853 resides or has his or her principal place of business for an  
854 order requiring the person to appear, testify, or produce such  
855 books, accounts, records, and other documents as are specified  
856 in the subpoena or subpoena duces tecum.

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

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

868 Section 18. Section 559.727, Florida Statutes, is created  
869 to read:

870 559.727 Cease and desist orders.—The office may issue and

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871 serve upon any person an order to cease and desist and to take  
872 corrective action if it has reason to believe the person is  
873 violating, has violated, or is about to violate any provision of  
874 this part, any rule or order issued under this part, or any  
875 written agreement between the person and the office. All  
876 procedural matters relating to issuance and enforcement of such  
877 order are governed by the Administrative Procedure Act.

878 Section 19. Section 559.730, Florida Statutes, is amended  
879 to read:

880 559.730 Administrative remedies.—

881 (1) The office may impose an administrative fine against,  
882 or revoke or suspend the registration of a any registrant under  
883 this part who has committed a violation of ~~engaged in repeated~~  
884 ~~violations which establish a clear pattern of abuse of~~  
885 ~~prohibited collection practices under s. 559.72. Final office~~  
886 action to fine, suspend, or revoke ~~or suspend~~ the registration  
887 of a any registrant is ~~shall be~~ subject to review in accordance  
888 with chapter 120 ~~in the same manner as revocation of a license.~~  
889 ~~The repeated violations of the law by one employee shall not be~~  
890 ~~grounds for revocation or suspension of the registration of the~~  
891 ~~employing consumer collection agency, unless the employee is~~  
892 ~~also the owner of a majority interest in the collection agency.~~

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

898 ~~(3) The office shall consider the number of complaints~~  
899 ~~against the registrant in relation to the accused registrant's~~

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900 ~~volume of business when determining whether suspension or~~  
901 ~~revocation is the more appropriate sanction when circumstances~~  
902 ~~warrant that one or the other should be imposed upon a~~  
903 ~~registrant.~~

904 (2)~~(4)~~ The office may ~~shall~~ impose suspension rather than  
905 revocation of a registration if ~~when~~ circumstances warrant that  
906 one or the other should be imposed ~~upon a registrant~~ and the  
907 ~~accused~~ registrant demonstrates that the registrant has taken  
908 affirmative steps that ~~which~~ can be expected to effectively  
909 eliminate the ~~repeated~~ violations and that the registrant's  
910 registration has never been previously ~~been~~ suspended.

911 (3)~~(5)~~ In addition to, or in lieu of suspension or  
912 revocation of a registration, the office may impose an  
913 administrative fine of up to \$25,000 per violation ~~\$1,000~~  
914 against a ~~the offending~~ registrant as ~~a sanction~~ for ~~repeated~~  
915 violations of ~~the provisions of~~ s. 559.72 ~~when violations do not~~  
916 ~~rise to the level of misconduct governed by subsection (1).~~ The  
917 office shall adopt rules establishing guidelines for imposing  
918 administrative penalties. ~~Final office action to impose an~~  
919 ~~administrative fine shall be subject to review in accordance~~  
920 ~~with ss. 120.569 and 120.57.~~

921 ~~(6) Any administrative fine imposed under this part shall~~  
922 ~~be payable to the office. The office shall maintain an~~  
923 ~~appropriate record and shall deposit such fine into the~~  
924 ~~Regulatory Trust Fund of the office.~~

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



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929        ~~(4)(8) Nothing in This part does not shall be construed to~~  
930 preclude any person from pursuing remedies available under the  
931 Federal Fair Debt Collection Practices Act for any violation of  
932 such act, ~~including specifically against any person who is~~  
933 ~~exempt from the registration provisions of this part.~~

934        Section 20. Section 559.77, Florida Statutes, is amended to  
935 read:

936        559.77 Civil remedies.—

937        (1) A consumer debtor may bring a civil action against a  
938 debt collector or consumer collection agency, or both, for a  
939 debt collector's violation ~~person violating the provisions of s.~~  
940 559.72(1) 559.72 ~~in a court of competent jurisdiction of the~~  
941 county in which the alleged violator resides or has his or her  
942 principal place of business or in the county wherein the alleged  
943 violation occurred.

944        (2) Upon adverse adjudication, the defendant is ~~shall be~~  
945 liable for actual damages and for additional statutory damages  
946 of up to \$1,000, together with court costs and reasonable  
947 attorney's fees incurred by the plaintiff. In determining the  
948 defendant's liability for any additional statutory damages, the  
949 court shall consider the nature of the defendant's noncompliance  
950 with s. 559.72(1) 559.72, the frequency and persistence of such  
951 noncompliance, and the extent to which such noncompliance was  
952 intentional. In a ~~any~~ class action lawsuit brought under this  
953 section, the court may award additional statutory damages of up  
954 to \$1,000 for each named plaintiff and an aggregate award of  
955 additional statutory damages up not to exceed the lesser of  
956 \$500,000 or 1 percent of the defendant's net worth for all  
957 remaining class members; however, the, ~~but in no event may this~~

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958 aggregate award may not provide an individual class member with  
959 additional statutory damages in excess of \$1,000. The court may ~~not~~  
960 ~~in its discretion,~~ award punitive damages and ~~may~~ provide such  
961 equitable relief as it deems necessary or proper, including  
962 enjoining the defendant from further violations of this part. If  
963 the court finds that the suit fails to raise a justiciable issue  
964 of law or fact, the plaintiff is ~~shall be~~ liable for court costs  
965 and reasonable attorney's fees incurred by the defendant.

966 (3) A person may ~~shall~~ not be held liable in any action  
967 brought under this section if the person shows by a  
968 preponderance of the evidence that the violation was not  
969 intentional and resulted from a bona fide error, notwithstanding  
970 the maintenance of procedures reasonably adapted to avoid ~~any~~  
971 such error.

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

975 (5) In applying and construing this section, due  
976 consideration and great weight shall be given to the  
977 interpretations of the Federal Trade Commission and the federal  
978 courts relating to the federal Fair Debt Collection Practices  
979 Act.

980 Section 21. Section 559.78, Florida Statutes, is amended to  
981 read:

982 559.78 Judicial enforcement.—In addition to other penalties  
983 provided under ~~in~~ this part, state attorneys and their  
984 assistants may ~~are authorized to~~ apply to the court ~~of competent~~  
985 ~~jurisdiction~~ within their respective jurisdictions, upon the  
986 sworn affidavit of any person alleging a violation of any ~~of the~~

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987 provisions of this part. Such court shall have jurisdiction,  
988 upon hearing and for cause shown, to grant a temporary or  
989 permanent injunction restraining any person from violating any  
990 provision of this part, whether or not there exists an adequate  
991 remedy at law, ~~and such injunction, suspension, or revocation~~  
992 shall issue without bond.

993 Section 22. Section 559.785, Florida Statutes, is amended  
994 to read:

995 559.785 Criminal penalty.—It is a felony of the third ~~shall~~  
996 ~~be a misdemeanor of the first~~ degree, punishable as provided in  
997 s. 775.082, ~~or~~ s. 775.083, or s. 775.084, for any person ~~not~~  
998 ~~exempt from registering as provided in this part~~ to engage in  
999 collecting consumer debts in this state without first  
1000 registering with the office, or to register or attempt to  
1001 register by means of fraud, misrepresentation, or concealment.

1002 Section 23. Expiration of registrations.—

1003 (1) Effective October 1, 2010, notwithstanding s.  
1004 559.555(3), Florida Statutes, or any other provision of this  
1005 act, all current registrations of consumer collection agencies  
1006 issued by the Office of Financial Regulation which are due to  
1007 expire between October 1 and December 31, 2010, shall  
1008 permanently expire March 31, 2011. No renewals of such  
1009 registrations are permitted.

1010 (2) Effective January 1, 2011, notwithstanding s.  
1011 559.555(5), Florida Statutes, as amended by this act, all  
1012 registrations issued between January 1, 2011, and March 31,  
1013 2011, expire March 31, 2012.

1014 Section 24. Except as otherwise expressly provided in this  
1015 act and except for this section, which shall take effect October

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1, 2010, this act shall take effect January 1, 2011.