

1 A bill to be entitled
2 An act relating to debt settlement services; providing a
3 directive to the Division of Statutory Revision; creating
4 s. 559.101, F.S.; providing a short title; creating s.
5 559.102, F.S.; providing definitions; creating s. 559.103,
6 F.S.; providing the powers of the Office of Financial
7 Regulation; creating s. 559.104, F.S.; authorizing the
8 Financial Services Commission to adopt rules; creating s.
9 559.105, F.S.; providing exceptions from the applicability
10 of provisions regulating debt settlement services;
11 providing an exception for attorneys representing clients;
12 creating s. 559.106, F.S.; requiring debt settlement
13 organizations to be registered with the office; providing
14 a registration fee; requiring background screening of
15 applicants and control persons; providing grounds for
16 registration issuance or denial; requiring annual renewal;
17 creating s. 559.107, F.S.; requiring registration renewal;
18 creating s. 559.108, F.S.; requiring a debt settlement
19 organization to obtain certain insurance coverage and a
20 surety bond and to provide proof of such bond to the
21 office; creating s. 559.109, F.S.; requiring a debt
22 settlement organization to maintain records; creating s.
23 559.111, F.S.; requiring a debt settlement organization to
24 prepare a financial analysis for the debtor; providing for
25 service contracts; requiring certain provisions to be
26 included in such contracts; requiring the debt settlement
27 organization to provide the debtor with copies of all
28 signed documents; creating s. 559.112, F.S.; prohibiting

29 certain acts by debt settlement organizations; providing
30 penalties; creating s. 559.113, F.S.; providing for debtor
31 complaints to the office; providing procedures and office
32 duties, including administrative penalties; creating s.
33 559.114, F.S.; providing for the issuance of subpoenas by
34 the office; creating s. 559.115, F.S.; authorizing the
35 office to issue cease and desist orders; creating s.
36 559.116, F.S.; declaring that violations of the part are
37 deceptive and unfair trade practices; providing
38 administrative penalties; specifying violations that
39 result in criminal penalties; amending s. 516.07, F.S.;
40 conforming a cross-reference; repealing ss. 559.10,
41 559.11, 559.12, and 559.13, F.S., relating to budget
42 planning; providing an appropriation and authorizing
43 additional positions; providing effective dates.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. The Division of Statutory Revision is directed
48 to redesignate the title of part II of chapter 559, Florida
49 Statutes, consisting of ss. 559.101-559.116, as "Debt Settlement
50 Services."

51 Section 2. Section 559.101, Florida Statutes, is created
52 to read:

53 559.101 Short title.—This part may be cited as the "Debt
54 Settlement Services Act."

55 Section 3. Section 559.102, Florida Statutes, is created
56 to read:

57 | 559.102 Definitions.—As used in this part, the term:
 58 | (1) "Commission" means the Financial Services Commission.
 59 | (2) "Control person" means an individual, partnership,
 60 | corporation, trust, or other organization that possesses the
 61 | power, directly or indirectly, to direct the management or
 62 | policies of a company, whether through ownership of securities,
 63 | by contract, or otherwise. The term includes, but is not limited
 64 | to:
 65 | (a) A company's executive officers, including the
 66 | president, chief executive officer, chief financial officer,
 67 | chief operations officer, chief legal officer, chief compliance
 68 | officer, director, or other individuals having similar status or
 69 | functions.
 70 | (b) For a corporation, each shareholder who, directly or
 71 | indirectly, owns 10 percent or more, or who has the power to
 72 | vote 10 percent or more, of a class of voting securities, unless
 73 | the applicant is a publicly traded company.
 74 | (c) For a partnership, all general partners and limited or
 75 | special partners who have contributed 10 percent or more, or who
 76 | have the right to receive upon dissolution 10 percent or more,
 77 | of the partnership's capital.
 78 | (d) For a trust, each trustee.
 79 | (e) For a limited liability company, all managing members
 80 | and those members who have contributed 10 percent or more, or
 81 | who have the right to receive upon dissolution 10 percent or
 82 | more, of the partnership's capital.
 83 | (3) "Debt settlement organization " means a person who
 84 | provides or offers to provide debt settlement services for

85 compensation.

86 (4) "Debt settlement services" means services, other than
 87 foreclosure-related rescue services, provided to a debtor with
 88 the expectation of obtaining the creditor's agreement to accept
 89 less than the principal amount of a debt in full satisfaction of
 90 the debt.

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

93 (6) "Enrolled debt" means the amount of debt at the time
 94 the contract for debt settlement services is entered but does
 95 not include any increases in the amount of debt or additional
 96 fees or penalties applied to the debt after services included in
 97 the contract are initiated.

98 (7) "Financial analysis" means the review of an
 99 individual's budget, income, expenses, and debt by the debt
 100 settlement organization in order to determine the individual's
 101 suitability for additional debt settlement services provided by
 102 the organization.

103 (8) "Office" means the Office of Financial Regulation of
 104 the Financial Services Commission.

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

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

108 Section 4. Section 559.103, Florida Statutes, is created
 109 to read:

110 559.103 Powers and duties of the Office of Financial
 111 Regulation; fees.—

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

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113 enforcement of this part.

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

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

121 Section 5. Section 559.104, Florida Statutes, is created
122 to read:

123 559.104 Rules.—The commission may adopt rules to
124 administer this part, including rules that:

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

127 (2) Establish time periods during which an applicant for
128 registration is barred from registration or a registered debt
129 settlement organization is barred from renewal due to prior
130 criminal convictions of, or guilty or nolo contendere pleas by,
131 any of the applicant's or registrant's control persons,
132 regardless of adjudication.

133 (a) The rules must provide:

134 1. Permanent bars for felonies involving money laundering,
135 breach of trust, dishonesty, embezzlement, fraud, fraudulent
136 conversion, misappropriation of property, racketeering, or
137 theft;

138 2. A 15-year disqualifying period for felonies involving
139 moral turpitude;

140 3. A 7-year disqualifying period for all other felonies;

141 and

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

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

149 (c) The rules may provide for mitigating factors for
 150 crimes identified in subparagraph (a)2. However, the mitigation
 151 may not result in a period of disqualification less than 7
 152 years. The rule may not mitigate the disqualifying periods in
 153 subparagraphs (a)1., (a)3., and (a)4.

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

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

158 Section 6. Section 559.105, Florida Statutes, is created
 159 to read:

160 559.105 Exceptions.—This part does not apply to:

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

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

165 (3) The following entities or their subsidiaries:

166 (a) The Federal National Mortgage Association.

167 (b) The Federal Home Loan Mortgage Corporation.

168 (c) The Florida Housing Finance Corporation created

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169 pursuant to s. 420.504.

170 (d) Any financial institution as defined in s.
171 655.005(1)(h).

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

174 Section 7. Section 559.106, Florida Statutes, is created
175 to read:

176 559.106 Registration of debt settlement organization.—

177 (1) Effective April 1, 2011, each person who acts as a
178 debt settlement organization in this state must be registered in
179 accordance with this section. This applies to debt settlement
180 organizations operating in this state or from another state,
181 regardless of whether such organization is registered, licensed,
182 or the equivalent in accordance with the laws of another state.

183 (2) In order to apply for registration, an applicant must
184 submit:

185 (a) A completed registration application form as
186 prescribed by commission rule which includes the name and
187 principal business address and e-mail address of the debt
188 settlement organization.

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

192 (c) Fingerprints for the applicant and each of the
193 applicant's control persons in accordance with rules adopted by
194 the commission.

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

197 2. The office may contract with a third-party vendor to
 198 provide live-scan fingerprinting in lieu of a paper fingerprint
 199 card.

200 3. A state criminal history background check must be
 201 conducted through the Department of Law Enforcement, and a
 202 federal criminal history background check must be conducted
 203 through the Federal Bureau of Investigation.

204 4. All fingerprints submitted to the Department of Law
 205 Enforcement must be submitted electronically and entered into
 206 the statewide automated fingerprint identification system
 207 established in s. 943.05(2)(b) and available for use in
 208 accordance with s. 943.05(2)(g) and (h). The office shall pay an
 209 annual fee to the department to participate in the system and
 210 inform the department of any person whose fingerprints are no
 211 longer required to be retained.

212 5. The costs of fingerprint processing, including the cost
 213 of retaining the fingerprints, shall be borne by the person
 214 subject to the background check.

215 6. The office is responsible for reviewing the results of
 216 the state and federal criminal history checks and determining
 217 whether the applicant meets registration requirements.

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

220 (e) Submit additional information or documentation
 221 requested by the office and required by rule concerning the
 222 applicant or a control person of the applicant. Additional
 223 information may include documentation of pending and prior
 224 disciplinary and criminal history events, including arrest

225 reports and certified copies of charging documents, plea
 226 agreements, judgments and sentencing documents, documents
 227 relating to pretrial intervention, orders terminating probation
 228 or supervised release, final administrative agency orders, or
 229 other comparable documents that may provide the office with the
 230 appropriate information to determine eligibility for
 231 registration.

232 (3) An application is considered received for the purposes
 233 of s. 120.60 upon the office's receipt of the completed
 234 application form, all required documentation, criminal history
 235 information, the application fee, and all applicable
 236 fingerprinting processing fees.

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

242 (a) Has been found guilty of, regardless of adjudication,
 243 or has entered a plea of nolo contendere or guilty to, any
 244 felony, any crime involving racketeering, fraud, theft,
 245 embezzlement, fraudulent conversion, breach of trust,
 246 misappropriation of property, dishonesty, or moral turpitude;

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

248 (c) Is the subject of a pending felony criminal
 249 prosecution or a prosecution or an administrative enforcement
 250 action, in any jurisdiction, which involves fraud, racketeering,
 251 embezzlement, fraudulent conversion, misappropriation of
 252 property, theft, dishonesty, breach of trust, or any other act

253 of moral turpitude;

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

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

260 (f) Has been the subject of any decision, finding,
261 injunction, suspension, prohibition, revocation, denial,
262 judgment, or other adverse action by any state or federal
263 agency.

264 (5) A registration issued under this section expires
265 annually on March 31, unless canceled, suspended, revoked, or
266 otherwise terminated, and must be renewed as provided under s.
267 559.107.

268 Section 8. Effective April 1, 2011, section 559.107,
269 Florida Statutes, is created to read:

270 559.107 Registration renewal.—

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

273 (a) A completed registration renewal form as prescribed by
274 commission rule.

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

277 (c) Any additional information or documentation requested
278 by the office and required by rule concerning the registrant or
279 control person of the registrant. Additional information may
280 include documentation of any pending and prior disciplinary and

281 criminal history events, including arrest reports and certified
282 copies of charging documents, plea agreements, judgments and
283 sentencing documents, documents relating to pretrial
284 intervention, orders terminating probation or supervised
285 release, final administrative agency orders, or other comparable
286 documents that may provide the office with the appropriate
287 information to determine eligibility for renewal of
288 registration.

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

292 (2) The office may not renew a debt settlement
293 organization registration unless the registrant continues to
294 meet the minimum requirements for initial registration pursuant
295 to s. 559.106 and adopted rule.

296 Section 9. Section 559.108, Florida Statutes, is created
297 to read:

298 559.108 Financial requirements; surety bond; disclosure.—A
299 debt settlement organization must:

300 (1) Obtain and maintain at all times insurance coverage
301 for employee dishonesty, depositor's forgery, and computer fraud
302 in an amount not less than the greater of \$100,000 or 10 percent
303 of the monthly average of the aggregate of all deposits made by
304 debtors to the organization for distribution to creditors for
305 the 6 months immediately preceding the date of initial
306 application for or renewal of the insurance. The deductible on
307 such coverage may not exceed 10 percent of the face amount of
308 the policy coverage.

309 (2) Obtain and maintain a surety bond from a surety
310 company authorized to do business in this state. The amount and
311 form of the bond shall be specified by rule and must be at least
312 \$50,000 but may not exceed \$1 million. The rule must provide
313 allowances for business volume. The bond shall be in favor of
314 the state for the use and benefit of any debtor who suffers or
315 sustains any loss or damage by reason of any violation of this
316 part. Pursuant to initial registration and renewal, each
317 applicant shall furnish to the office:

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

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

322 (c) A statement from the surety company that the bond
323 issued by the surety company meets the requirements of this
324 part. The liability of the surety company under any bond issued
325 pursuant to this section may not, in the aggregate, exceed the
326 amount of the bond regardless of the number or amount of any
327 claims filed or which might be asserted against the surety on
328 such bond. If multiple claims are filed which collectively
329 exceed the amount of the bond, the surety may pay the full
330 amount of the bond to the office and is not further liable under
331 the bond. The office shall hold such funds for distribution to
332 claimants and administratively determine and pay to each
333 claimant a pro rata share of each valid claim made within 6
334 months after the date the first claim is filed against the
335 surety.

336 Section 10. Section 559.109, Florida Statutes, is created

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337 to read:

338 559.109 Maintenance of records.-

339 (1) Each registered debt settlement organization shall
340 maintain, at the principal place of business designated on the
341 registration, all books, accounts, records, and documents
342 necessary to determine the registrant's compliance with this
343 part.

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

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

352 (4) All books, accounts, records, documents, and receipts
353 of any payment transaction must be preserved and kept available
354 for inspection by the office for at least 5 years after the date
355 the transaction is completed. The commission may prescribe by
356 rule requirements for the destruction of books, accounts,
357 records, and documents retained by the registrant after the
358 completion of the required 5-year period.

359 Section 11. Section 559.111, Florida Statutes, is created
360 to read:

361 559.111 Financial analysis; service contracts.-

362 (1) Before a debtor signs a service contract, the debt
363 settlement organization shall prepare, retain a copy of, and
364 provide to the debtor a written financial analysis specific to

365 the debtor which includes an evaluation of the debtor's income,
366 expenses, and all debts. An additional fee may not be charged
367 for the financial analysis.

368 (2) Based on the completed financial analysis, the debt
369 settlement organization shall provide to the debtor, and retain
370 a copy of, a written determination of the debtor's suitability
371 for debt settlement services and whether the debtor can
372 reasonably meet the requirements of the service contract,
373 including the debtor's ability to save the amount estimated to
374 be needed to fund the settlement of the debt.

375 (3) The service contract between the debt settlement
376 organization and the debtor must be signed and dated by the
377 debtor and include all of the following:

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

380
381 IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR
382 CREDITORS BEFORE SIGNING THIS CONTRACT. YOUR CREDITORS
383 MAY BE WILLING TO DIRECTLY NEGOTIATE A SETTLEMENT,
384 INTEREST RATE REDUCTION, MODIFICATION, PAYMENT PLAN,
385 OR RESTRUCTURING OF YOUR DEBT FREE OF CHARGE.

386
387 YOUR USE OF DEBT SETTLEMENT SERVICES MAY RESULT IN
388 LATE FEES, ADDITIONAL DEBTS, AND AN ADVERSE CREDIT
389 RATING. YOU SHOULD CONTACT YOUR CREDITOR FOR MORE
390 INFORMATION.

391
392 (b) A full and detailed description of the services to be

393 performed by the debt settlement organization for the debtor,
394 including the financial analysis determining the suitability of
395 the debtor for debt settlement services, all guarantees and all
396 promises of full or partial refunds, the estimated date or
397 length of time by which the services are to be performed, and a
398 copy of the Florida Debt Settlement Services Act.

399 (c) All terms and conditions of payment, including the
400 anticipated total of all payments to be made by the debtor and
401 the estimated amount of any payments to be made to the debt
402 settlement organization or to any other person.

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

406 (e) A clear and conspicuous statement in boldface type, in
407 immediate proximity to the space reserved for the debtor's
408 signature, which states: "You, the debtor, may cancel this
409 service contract at any time before midnight of the 5th business
410 day after the date of signing this contract. (See the attached
411 notice of right to cancel for further explanation of this
412 right.)"

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

416
417 NOTICE OF RIGHT TO CANCEL

418
419 YOU MAY CANCEL ANY CONTRACT FOR DEBT SETTLEMENT
420 SERVICES WITHIN 5 BUSINESS DAYS AFTER THE DATE THE

421 CONTRACT IS SIGNED BY YOU WITHOUT INCURRING ANY
 422 PENALTY OR OBLIGATION.

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

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

433 TO: ... (name of debt settlement organization)...
 434 AT: ... (address)...

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

440 ... (Signature of Debtor)...

441 ... (Date)...

442 ... (Address)...

443 ... (Phone Number)...

445 (4) The debt settlement organization must provide the
 446 debtor, at the time the documents are signed, with a copy of the
 447 completed service contract as described in subsection (3) and
 448 all other documents the organization requires the debtor to

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449 sign.

450 Section 12. Section 559.112, Florida Statutes, is created
451 to read:

452 559.112 Prohibited acts.—

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

455 (a) Any payment for services before the execution of a
456 written service contract.

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

459 (c) A fee or contribution greater than \$120 per year for
460 debt settlement services provided in addition to the initial
461 consultation under paragraph (b).

462 (d) A fee or contribution for debt settlement services
463 that exceeds 7.5 percent of the amount paid monthly by the
464 debtor to the organization for disbursement to a creditor or \$35
465 per month, whichever is greater, or 7.5 percent of the enrolled
466 debt.

467 (e) A fee or contribution for debt settlement services
468 that exceeds 40 percent of the savings realized, which is
469 defined as the difference between the amount of enrolled debt
470 and the amount paid to the creditor in discharge of the enrolled
471 debt, less any fees collected pursuant to paragraphs (b) and
472 (c). However, such fees collected for debt settlement services,
473 in the aggregate, may not exceed 20 percent of the enrolled
474 debt. For service contracts requiring fees to be paid on a
475 monthly basis, the payment of such fees must be spread uniformly
476 over at least 18 months or 50 percent of the term of the

477 contract, whichever is greater.

478 (f) A fee or contribution unless the debt settlement
479 services result in a settlement, discharge, or modification of
480 the debt on terms more favorable to the debtor than the terms of
481 the original agreement between the debtor and creditor.

482 (g) Any fee or contribution for debt settlement services,
483 unless no other payment has been received, directly or
484 indirectly, from the debtor for such services. Fees authorized
485 under this subsection may not be a part of or included in the
486 calculation of total enrolled debt.

487 (2) A debt settlement organization may not:

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

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

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

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

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

504 (f) Fail to disclose on any offer or sale of services,

505 including any Internet website, the debt settlement
506 organization's name, business address, telephone number, and e-
507 mail address, if any.

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

511 (h) Fail to report on a form prescribed by commission rule
512 any change to information contained in an initial application
513 form or any amendment to the application within 30 days after
514 the change is effective.

515 (i) Fail to comply with any of the provisions of this
516 part.

517 Section 13. Section 559.113, Florida Statutes, is created
518 to read:

519 559.113 Debtor complaints; administrative duties.—

520 (1) The office shall receive and maintain records of
521 correspondence and complaints from debtors concerning any person
522 who provides debt settlement services, including any debt
523 settlement organization.

524 (2) The office shall inform and furnish relevant
525 information to the appropriate regulatory body if a debt
526 settlement organization exempt from registration under this part
527 has been named in consumer complaints alleging violations of
528 this part.

529 (3) The office shall investigate complaints and record the
530 resolution of such complaints.

531 (4) A debt settlement organization that provides or
532 attempts to provide debt settlement services without first

533 registering in accordance with this part is subject to a penalty
534 of up to \$25,000 in addition to the other remedies provided in
535 this part and under part II of chapter 501. The office shall
536 advise the appropriate state attorney, or the Attorney General,
537 of any determination by the office of a violation of this part
538 by any debt settlement organization that is not registered as
539 required by this part. The office shall furnish the state
540 attorney or Attorney General with the office's information
541 concerning the alleged violations of such requirements. The
542 enforcing authority is entitled to reasonable attorney's fees
543 and costs in any action brought to enforce this part against an
544 unregistered debt settlement organization.

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

552 Section 14. Section 559.114, Florida Statutes, is created
553 to read:

554 559.114 Subpoenas.—

555 (1) The office may:

556 (a) Issue and serve subpoenas and subpoenas duces tecum to
557 compel the attendance of witnesses and the production of all
558 books, accounts, records, and other documents and materials
559 relevant to an investigation conducted by the office. The
560 office, or its authorized representative, may administer oaths

561 and affirmations to any person.

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

567 (2) If there is substantial noncompliance with a subpoena
568 or subpoena duces tecum issued by the office, the office may
569 petition the court in the county where the person subpoenaed
570 resides or has her or his principal place of business for an
571 order requiring the person to appear, testify, or produce such
572 books, accounts, records, and other documents as are specified
573 in the subpoena or subpoena duces tecum.

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

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

585 Section 15. Section 559.115, Florida Statutes, is created
586 to read:

587 559.115 Cease and desist orders.—The office may issue and
588 serve upon any person an order to cease and desist and to take

589 corrective action if it has reason to believe the person is
590 violating, has violated, or is about to violate any provision of
591 this part, any rule or order issued under this part, or any
592 written agreement between the person and the office. All
593 procedural matters relating to issuance and enforcement of such
594 order are governed by the Administrative Procedure Act.

595 Section 16. Section 559.116, Florida Statutes, is created
596 to read:

597 559.116 Violations; penalties.—

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

607 (2) The office may impose an administrative fine on, or
608 revoke or suspend the registration of a registrant who has
609 committed a violation of this part. Final action to fine,
610 suspend, or revoke the registration of a registrant is subject
611 to review in accordance with chapter 120.

612 (a) The office may impose suspension rather than
613 revocation of a registration if circumstances warrant that one
614 or the other should be imposed and the registrant demonstrates
615 that the registrant has taken affirmative steps that can be
616 expected to effectively eliminate the violations and that the

617 registrant's registration has never been previously suspended.

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

622 (3) A person who provides debt settlement services in this
 623 state without first registering with the office, or who
 624 registers or attempts to register by means of fraud,
 625 misrepresentation, or concealment, commits a felony of the third
 626 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 627 775.084.

628 Section 17. Paragraph (g) of subsection (1) of section
 629 516.07, Florida Statutes, is amended to read:

630 516.07 Grounds for denial of license or for disciplinary
 631 action.—

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

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

638 Section 18. Sections 559.10, 559.11, 559.12, and 559.13,
 639 Florida Statutes, are repealed.

640 Section 19. Effective July 1, 2010, the sums of \$261,938
 641 in recurring funds and \$213,767 in nonrecurring funds are
 642 appropriated from the Regulatory Trust Fund of the Department of
 643 Financial Services to the Office of Financial Regulation, and
 644 four full-time equivalent positions with the associated salary

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645 rate of 187,707 are authorized, for the purpose of administering
646 this act during the 2010-2011 fiscal year.

647 Section 20. Except as otherwise expressly provided in this
648 act and except for this section, which shall take effect upon
649 this act becoming a law, this act shall take effect January 1,
650 2011.