

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

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

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

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:

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.

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.

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:

417 NOTICE OF RIGHT TO CANCEL

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



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 for debt settlement services  
460 that exceeds 40 percent of the realized savings. As used in this  
461 paragraph, the term "realized savings" means the difference  
462 between the amount of the enrolled debt and the amount paid to  
463 the creditor in discharge of the enrolled debt. However, such  
464 fee or contribution collected for debt settlement services, in  
465 the aggregate, may not exceed 20 percent of the enrolled debt.

466 (d) For a service contract requiring payment of a fee or  
467 contribution on a monthly basis, a fee or contribution for debt  
468 settlement services that exceeds 20 percent of the enrolled  
469 debt. Such fees or contributions may only be collected under  
470 this paragraph by apportioning the collection of the fees or  
471 contributions pro rata throughout at least one-half of the  
472 estimated term of the debt settlement services.

473  
474 A fee or contribution authorized under this subsection is not a  
475 part of, and may not be included in the calculation of, the  
476 total enrolled debt.

477 (2) A debt settlement organization may not:

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

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

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

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

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

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

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

501 (h) Fail to report on a form prescribed by commission rule  
502 any change to information contained in an initial application  
503 form or any amendment to the application within 30 days after  
504 the change is effective.

505 (i) Fail to comply with any of the provisions of this  
506 part.

507 Section 13. Section 559.113, Florida Statutes, is created  
508 to read:

509 559.113 Debtor complaints; administrative duties.—

510 (1) The office shall receive and maintain records of  
511 correspondence and complaints from debtors concerning any person  
512 who provides debt settlement services, including any debt  
513 settlement organization.

514 (2) The office shall inform and furnish relevant  
515 information to the appropriate regulatory body if a debt  
516 settlement organization exempt from registration under this part  
517 has been named in consumer complaints alleging violations of  
518 this part.

519 (3) The office shall investigate complaints and record the  
520 resolution of such complaints.

521 (4) A debt settlement organization that provides or  
522 attempts to provide debt settlement services without first  
523 registering in accordance with this part is subject to a penalty  
524 of up to \$25,000 in addition to the other remedies provided in  
525 this part and under part II of chapter 501. The office shall  
526 advise the appropriate state attorney, or the Attorney General,  
527 of any determination by the office of a violation of this part  
528 by any debt settlement organization that is not registered as  
529 required by this part. The office shall furnish the state  
530 attorney or Attorney General with the office's information  
531 concerning the alleged violations of such requirements. The  
532 enforcing authority is entitled to reasonable attorney's fees

533 and costs in any action brought to enforce this part against an  
534 unregistered debt settlement organization.

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

542 Section 14. Section 559.114, Florida Statutes, is created  
543 to read:

544 559.114 Subpoenas.—

545 (1) The office may:

546 (a) Issue and serve subpoenas and subpoenas duces tecum to  
547 compel the attendance of witnesses and the production of all  
548 books, accounts, records, and other documents and materials  
549 relevant to an investigation conducted by the office. The  
550 office, or its authorized representative, may administer oaths  
551 and affirmations to any person.

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

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

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

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

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

575 Section 15. Section 559.115, Florida Statutes, is created  
576 to read:

577 559.115 Cease and desist orders.—The office may issue and  
578 serve upon any person an order to cease and desist and to take  
579 corrective action if it has reason to believe the person is  
580 violating, has violated, or is about to violate any provision of  
581 this part, any rule or order issued under this part, or any  
582 written agreement between the person and the office. All  
583 procedural matters relating to issuance and enforcement of such  
584 order are governed by the Administrative Procedure Act.

585 Section 16. Section 559.116, Florida Statutes, is created  
586 to read:

587 559.116 Violations; penalties.—

588 (1) A person who violates any provision of this part

589 commits an unfair or deceptive trade practice as defined in part  
590 II of chapter 501 and is also subject to the penalties,  
591 remedies, and enforcement actions provided therein. Further, any  
592 debtor injured by a violation of this part may bring an action  
593 for recovery of damages. Judgment shall be entered for actual  
594 damages, but in no case less than the amount paid by the debtor  
595 to the debt settlement organization plus reasonable attorney's  
596 fees and costs.

597 (2) The office may impose an administrative fine on, or  
598 revoke or suspend the registration of a registrant who has  
599 committed a violation of this part. Final action to fine,  
600 suspend, or revoke the registration of a registrant is subject  
601 to review in accordance with chapter 120.

602 (a) The office may impose suspension rather than  
603 revocation of a registration if circumstances warrant that one  
604 or the other should be imposed and the registrant demonstrates  
605 that the registrant has taken affirmative steps that can be  
606 expected to effectively eliminate the violations and that the  
607 registrant's registration has never been previously suspended.

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

612 (3) A person who provides debt settlement services in this  
613 state without first registering with the office, or who  
614 registers or attempts to register by means of fraud,  
615 misrepresentation, or concealment, commits a felony of the third  
616 degree, punishable as provided in s. 775.082, s. 775.083, or s.

617 775.084.

618 Section 17. Paragraph (g) of subsection (1) of section  
619 516.07, Florida Statutes, is amended to read:

620 516.07 Grounds for denial of license or for disciplinary  
621 action.—

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

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

628 Section 18. Sections 559.10, 559.11, 559.12, and 559.13,  
629 Florida Statutes, are repealed.

630 Section 19. Effective July 1, 2010, the sums of \$261,938  
631 in recurring funds and \$213,767 in nonrecurring funds are  
632 appropriated from the Regulatory Trust Fund of the Department of  
633 Financial Services to the Office of Financial Regulation, and  
634 four full-time equivalent positions with the associated salary  
635 rate of 187,707 are authorized, for the purpose of administering  
636 this act during the 2010-2011 fiscal year.

637 Section 20. Except as otherwise expressly provided in this  
638 act and except for this section, which shall take effect upon  
639 this act becoming a law, this act shall take effect January 1,  
640 2011.