

1 A bill to be entitled

2 An act relating to the Office of Financial Regulation;
3 amending s. 559.55, F.S.; reordering and revising
4 definitions; amending s. 559.553, F.S.; deleting a
5 provision entitling prospective consumer collection
6 agency registrants to registration when specified
7 conditions are met; creating s. 559.554, F.S.;
8 providing powers and duties of the Office of Financial
9 Regulation and the Financial Services Commission;
10 authorizing the commission to adopt rules; requiring
11 fees, charges, and fines to be deposited in a
12 specified trust fund; creating s. 559.5541, F.S.;
13 authorizing the office to make investigations or
14 examinations to determine violations of specified
15 provisions; amending s. 559.555, F.S.; revising
16 registration procedures and application requirements
17 for consumer collection agencies; requiring applicants
18 and certain registrants to submit fingerprints;
19 providing that registrations are not transferable or
20 assignable; requiring consumer collection agencies to
21 report changes in specified information within a
22 specified period; providing registration renewal and
23 fingerprint retention fees; requiring the office to
24 provide notice of registration expiration within a
25 specified period; providing for applicability to
26 registration renewals for registrants initially

27 registered before a specified date; creating s.
 28 559.5551, F.S.; providing notification requirements
 29 for consumer collection agencies; authorizing the
 30 office to bring an administrative action under certain
 31 circumstances; amending s. 559.565, F.S.; conforming a
 32 cross-reference; amending s. 559.715, F.S.; revising
 33 written notice requirements for the assignment of
 34 consumer debts; amending s. 559.72, F.S.; prohibiting
 35 debt collectors from engaging in specified acts
 36 relating to consumer debt collection; amending s.
 37 559.730, F.S.; providing grounds for disciplinary
 38 action; providing penalties; providing grounds for an
 39 immediate suspension of a consumer collection agency
 40 registration; providing grounds to deny a request to
 41 terminate a registration and to withdraw a
 42 registration application; providing an effective date.

43

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

45

46 Section 1. Section 559.55, Florida Statutes, is reordered
 47 and amended to read:

48 559.55 Definitions.—The following terms shall, unless the
 49 context otherwise indicates, have the following meanings for the
 50 purpose of this part:

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

52 (2)~~(5)~~ "Communication" means the conveying of information

53 regarding a debt directly or indirectly to any person through
54 any medium.

55 (3)~~(7)~~ "Consumer collection agency" means any debt
56 collector or business entity engaged in the business of
57 soliciting consumer debts for collection or of collecting
58 consumer debts, which debt collector or business is not
59 expressly exempted as set forth in s. 559.553(3) ~~559.553(4)~~.

60 (4) "Control person" means an individual, partnership,
61 corporation, trust, or other organization that possesses the
62 power, directly or indirectly, to direct the management or
63 policies of a company, whether through ownership of securities,
64 by contract, or otherwise. The term includes, but is not limited
65 to:

66 (a) A company's executive officers, including the
67 president, chief executive officer, chief financial officer,
68 chief operations officer, chief legal officer, chief compliance
69 officer, director, and other individuals having similar status
70 or functions.

71 (b) For a corporation, a shareholder who, directly or
72 indirectly, owns 10 percent or more or that has the power to
73 vote 10 percent or more, of a class of voting securities unless
74 the applicant is a publicly traded company.

75 (c) For a partnership, all general partners and limited or
76 special partners who have contributed 10 percent or more or that
77 have the right to receive, upon dissolution, 10 percent or more
78 of the partnership's capital.

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79 (d) For a trust, each trustee.

80 (e) For a limited liability company, all elected managers
81 and those members who have contributed 10 percent or more or
82 that have the right to receive, upon dissolution, 10 percent or
83 more of the partnership's capital.

84 (5)~~(3)~~ "Creditor" means any person who offers or extends
85 credit creating a debt or to whom a debt is owed, but does not
86 include any person to the extent that they receive an assignment
87 or transfer of a debt in default solely for the purpose of
88 facilitating collection of such debt for another.

89 (6)~~(1)~~ "Debt" or "consumer debt" means any obligation or
90 alleged obligation of a consumer to pay money arising out of a
91 transaction in which the money, property, insurance, or services
92 which are the subject of the transaction are primarily for
93 personal, family, or household purposes, whether or not such
94 obligation has been reduced to judgment.

95 (7)~~(6)~~ "Debt collector" means any person who uses any
96 instrumentality of commerce within this state, whether initiated
97 from within or outside this state, in any business the principal
98 purpose of which is the collection of debts, or who regularly
99 collects or attempts to collect, directly or indirectly, debts
100 owed or due or asserted to be owed or due another. The term
101 "debt collector" includes any creditor who, in the process of
102 collecting her or his own debts, uses any name other than her or
103 his own which would indicate that a third person is collecting
104 or attempting to collect such debts. The term does not include:

- 105 (a) Any officer or employee of a creditor while, in the
106 name of the creditor, collecting debts for such creditor;
- 107 (b) Any person while acting as a debt collector for
108 another person, both of whom are related by common ownership or
109 affiliated by corporate control, if the person acting as a debt
110 collector for persons to whom it is so related or affiliated and
111 if the principal business of such persons is not the collection
112 of debts;
- 113 (c) Any officer or employee of any federal, state, or
114 local governmental body to the extent that collecting or
115 attempting to collect any debt is in the performance of her or
116 his official duties;
- 117 (d) Any person while serving or attempting to serve legal
118 process on any other person in connection with the judicial
119 enforcement of any debt;
- 120 (e) Any not-for-profit organization which, at the request
121 of consumers, performs bona fide consumer credit counseling and
122 assists consumers in the liquidation of their debts by receiving
123 payments from such consumers and distributing such amounts to
124 creditors; or
- 125 (f) Any person collecting or attempting to collect any
126 debt owed or due or asserted to be owed or due another to the
127 extent that such activity is incidental to a bona fide fiduciary
128 obligation or a bona fide escrow arrangement; concerns a debt
129 which was originated by such person; concerns a debt which was
130 not in default at the time it was obtained by such person; or

131 concerns a debt obtained by such person as a secured party in a
 132 commercial credit transaction involving the creditor.

133 (8)~~(2)~~ "Debtor" or "consumer" means any natural person
 134 obligated or allegedly obligated to pay any debt.

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

139 (10)~~(4)~~ "Office" means the Office of Financial Regulation
 140 of the ~~Financial Services~~ commission.

141 (11)~~(8)~~ "Out-of-state consumer debt collector" means any
 142 person whose business activities in this state involve both
 143 collecting or attempting to collect consumer debt from debtors
 144 located in this state by means of interstate communication
 145 originating from outside this state and soliciting consumer debt
 146 accounts for collection from creditors who have a business
 147 presence in this state. For purposes of this subsection, a
 148 creditor has a business presence in this state if either the
 149 creditor or an affiliate or subsidiary of the creditor has an
 150 office in this state.

151 Section 2. Section 559.553, Florida Statutes, is amended
 152 to read:

153 559.553 Registration of consumer collection agencies
 154 required; exemptions.—

155 (1) A ~~After January 1, 1994, no person may not shall~~
 156 engage in business in this state as a consumer collection agency

157 or continue to do business in this state as a consumer
 158 collection agency without first registering in accordance with
 159 this part, and thereafter maintaining a valid registration.

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

163 ~~(3) A prospective registrant shall be entitled to be~~
 164 ~~registered when registration information is complete on its face~~
 165 ~~and the applicable registration fee has been paid; however, the~~
 166 ~~office may reject a registration submitted by a prospective~~
 167 ~~registrant if the registrant or any principal of the registrant~~
 168 ~~previously has held any professional license or state~~
 169 ~~registration which was the subject of any suspension or~~
 170 ~~revocation which has not been explained by the prospective~~
 171 ~~registrant to the satisfaction of the office either in the~~
 172 ~~registration information submitted initially or upon the~~
 173 ~~subsequent written request of the office. In the event that an~~
 174 ~~attempted registration is rejected by the office the prospective~~
 175 ~~registrant shall be informed of the basis for rejection.~~

176 ~~(3)-(4)~~ This section does ~~shall~~ not apply to:

- 177 (a) An ~~Any~~ original creditor.
- 178 (b) A ~~Any~~ member of The Florida Bar.
- 179 (c) A ~~Any~~ financial institution authorized to do business
 180 in this state and any wholly owned subsidiary and affiliate
 181 thereof.
- 182 (d) A ~~Any~~ licensed real estate broker.

183 (e) An ~~Any~~ insurance company authorized to do business in
 184 this state.

185 (f) A ~~Any~~ consumer finance company and any wholly owned
 186 subsidiary and affiliate thereof.

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

188 (h) An ~~Any~~ out-of-state consumer debt collector who does
 189 not solicit consumer debt accounts for collection from credit
 190 grantors who have a business presence in this state.

191 (i) An ~~Any~~ FDIC-insured institution or subsidiary or
 192 affiliate thereof.

193 ~~(4)-(5)~~ An ~~Any~~ out-of-state consumer debt collector as
 194 defined in s. 559.55(11) ~~559.55(8)~~ who is not exempt from
 195 registration by application of subsection (3) ~~(4)~~ and who fails
 196 to register in accordance with this part shall be subject to an
 197 enforcement action by the state as specified in s. 559.565.

198 Section 3. Section 559.554, Florida Statutes, is created
 199 to read:

200 559.554 Powers and duties of the commission and office.-

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

203 (2) The commission may adopt rules to administer this
 204 part, including rules:

205 (a) Requiring electronic submission of forms, documents,
 206 and fees required by this part.

207 (b) Establishing time periods during which a consumer
 208 collection agency is barred from registration due to prior

209 criminal convictions of, or guilty or nolo contendere pleas by,
210 an applicant's control persons, regardless of adjudication.

211 1. The rules must provide:

212 a. A 15-year disqualifying period for felonies involving
213 fraud, dishonesty, breach of trust, money laundering, or other
214 acts of moral turpitude.

215 b. A 7-year disqualifying period for all other felonies.

216 c. A 5-year disqualifying period for misdemeanors
217 involving fraud, dishonesty, or other acts of moral turpitude.

218 2. The rules must provide for an additional waiting period
219 due to dates of imprisonment or community supervision, the
220 commitment of multiple crimes, and other factors reasonably
221 related to the applicant's criminal history.

222 3. The rules must provide for mitigating factors for
223 crimes identified in sub-subparagraphs 1.a., 1.b., and 1.c.

224 4. An applicant is not eligible for registration until
225 expiration of the disqualifying period set by rule.

226 5. Section 112.011 does not apply to eligibility for
227 registration under this part.

228 (3) All fees, charges, and fines collected pursuant to
229 this part shall be deposited into the Regulatory Trust Fund of
230 the office.

231 Section 4. Section 559.5541, Florida Statutes, is created
232 to read:

233 559.5541 Examinations and investigations.-

234 (1) Notwithstanding s. 559.725(4), the office may, without

235 advance notice, conduct examinations and investigations, within
 236 or outside this state, to determine whether a person has
 237 violated this part or related rules. For purposes of this
 238 section, the office may examine the books, accounts, records,
 239 and other documents or matters of any person subject to this
 240 part. The office may compel the production of all relevant
 241 books, records, and other documents and materials relative to an
 242 examination or investigation. Examinations may not be made more
 243 often than once during a 48-month period unless the office has
 244 reason to believe a person has violated or will violate this
 245 part or related rules.

246 (2) In order to reduce the burden on persons subject to
 247 this part, the office may conduct a joint or concurrent
 248 examination with a state or federal regulatory agency and may
 249 furnish a copy of all examinations to an appropriate regulator
 250 if the regulator agrees to abide by the confidentiality
 251 provisions in chapter 119 and this part. The office may also
 252 accept an examination from any appropriate regulator.

253 Section 5. Section 559.555, Florida Statutes, is amended
 254 to read:

255 559.555 Registration of consumer collection agencies;
 256 procedure.—

257 (1) A Any person who acts ~~required to register~~ as a
 258 consumer collection agency must be registered in accordance with
 259 this section. ~~shall furnish to the office the registration fee~~
 260 ~~and information as follows:~~

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261 (2) In order to apply for a consumer collection agency
262 registration, an applicant must:

263 (a) Submit a completed application form as prescribed by
264 rule of the commission.

265 (b) Submit a nonrefundable application fee of \$200.
266 Application fees may not be prorated for partial years of
267 registration.

268 (c) Submit fingerprints for each of the applicant's
269 control persons in accordance with rules adopted by the
270 commission.

271 1. The fingerprints may be submitted through a third-party
272 vendor authorized by the Department of Law Enforcement to
273 provide live-scan fingerprinting.

274 2. A state criminal history background check must be
275 conducted through the Department of Law Enforcement, and a
276 federal criminal history background check must be conducted
277 through the Federal Bureau of Investigation.

278 3. All fingerprints submitted to the Department of Law
279 Enforcement must be submitted electronically and entered into
280 the statewide automated biometric identification system
281 established in s. 943.05(2)(b) and available for use in
282 accordance with s. 943.05(2)(g) and (h). The office shall pay an
283 annual fee to the Department of Law Enforcement to participate
284 in the system and inform the Department of Law Enforcement of
285 any person whose fingerprints are no longer required to be
286 retained.

287 4. The costs of fingerprint processing, including the cost
 288 of retaining the fingerprints, shall be borne by the person
 289 subject to the background check.

290 5. The office is responsible for reviewing the results of
 291 the state and federal criminal history background checks and
 292 determining whether the applicant meets registration
 293 requirements.

294 (3) The office shall issue a consumer collection agency
 295 registration to each person who is not otherwise ineligible and
 296 who meets the requirements of this section. However, it is a
 297 ground for denial of registration if the applicant or one of the
 298 applicant's control persons has committed any violation
 299 specified in this part, or is the subject of a pending felony
 300 criminal prosecution or a prosecution or an administrative
 301 enforcement action, in any jurisdiction, which involves fraud,
 302 dishonesty, breach of trust, money laundering, or any other act
 303 of moral turpitude.

304 (4) A registration issued under this part is not
 305 transferable or assignable.

306 (5) A consumer collection agency shall report, on a form
 307 prescribed by rule of the commission, any change in the
 308 information contained in an initial application form, or an
 309 amendment thereto, within 30 days after the change is effective.

310 ~~(1) The registrant shall pay to the office a registration~~
 311 ~~fee in the amount of \$200. All amounts collected shall be~~
 312 ~~deposited by the office to the credit of the Regulatory Trust~~

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313 ~~Fund of the office.~~

314 ~~(2) Each registrant shall provide to the office the~~
315 ~~business name or trade name, the current mailing address, the~~
316 ~~current business location which constitutes its principal place~~
317 ~~of business, and the full name of each individual who is a~~
318 ~~principal of the registrant. "Principal of a registrant" means~~
319 ~~the registrant's owners if a partnership or sole proprietorship,~~
320 ~~corporate officers, corporate directors other than directors of~~
321 ~~a not-for-profit corporation organized pursuant to chapter 617~~
322 ~~and Florida resident agent if a corporate registrant. The~~
323 ~~registration information shall include a statement clearly~~
324 ~~identifying and explaining any occasion on which any~~
325 ~~professional license or state registration held by the~~
326 ~~registrant, by any principal of the registrant, or by any~~
327 ~~business entity in which any principal of the registrant was the~~
328 ~~owner of 10 percent or more of such business, was the subject of~~
329 ~~any suspension or revocation.~~

330 ~~(6)~~(3) Renewal of registration shall be made between
331 October 1 and December 31 of each year. There shall be no
332 proration of the fee for any registration. In order to renew a
333 consumer collection agency registration, a registrant must
334 submit a nonrefundable renewal fee equal to the registration fee
335 and a nonrefundable fee to cover the costs of further
336 fingerprint processing and retention as set forth by commission
337 rule.

338 (7) The office shall provide written notification by

339 first-class mail to a registrant who fails to renew his or her
340 consumer collection agency registration within 10 business days
341 after expiration of the registration.

342 Section 6. A consumer collection agency registrant whose
343 initial registration is approved and issued by the Office of
344 Financial Regulation pursuant to s. 559.555, Florida Statutes,
345 before October 1, 2014, who seeks renewal of the registration
346 must submit fingerprints for each control person for live-scan
347 processing pursuant to s. 559.555(2)(c), Florida Statutes, as
348 amended by this act. Such fingerprints must be submitted before
349 renewing a registration that is scheduled to expire December 31,
350 2014.

351 Section 7. Section 559.5551, Florida Statutes, is created
352 to read:

353 559.5551 Requirements of registrants.—A registrant under
354 this part shall report to the office in a manner prescribed by
355 rule of the commission:

356 (1) A conviction of, or plea of nolo contendere to,
357 regardless of adjudication, a crime or administrative violation
358 that involves fraud, dishonesty, breach of trust, money
359 laundering, or any other act of moral turpitude, in any
360 jurisdiction, by the registrant or any control person within 30
361 days after the date of conviction, entry of a plea of nolo
362 contendere, or final administrative action.

363 (2) A conviction of, or plea of nolo contendere to,
364 regardless of adjudication, a felony committed by the registrant

365 or any control person within 30 days after the date of
366 conviction or the date the plea of nolo contendere is entered.

367 (3) A change to the information contained in an initial
368 application form or an amendment to the application within 30
369 days after the change is effective.

370 (4) An addition or subtraction of a control person or a
371 change in the form of business organization. A control person
372 added by a registrant is subject to this part and must submit
373 fingerprints in accordance with s. 559.555 and the rules of the
374 commission. The office may bring an administrative action in
375 accordance with s. 559.72 to enforce this part if the added
376 control person fails to meet registration requirements or comply
377 with any other provision of this part.

378 Section 8. Section 559.565, Florida Statutes, is amended
379 to read:

380 559.565 Enforcement action against out-of-state consumer
381 debt collector.— The remedies of this section are cumulative to
382 other sanctions and enforcement provisions of this part for any
383 violation by an out-of-state consumer debt collector, as defined
384 in s. 559.55(11) ~~559.55(8)~~.

385 (1) An out-of-state consumer debt collector who collects
386 or attempts to collect consumer debts in this state without
387 first registering in accordance with this part is subject to an
388 administrative fine of up to \$10,000 together with reasonable
389 attorney fees and court costs in any successful action by the
390 state to collect such fines.

391 (2) A ~~Any~~ person, whether or not exempt from registration
 392 under this part, who violates s. 559.72 is subject to sanctions
 393 the same as any other consumer debt collector, including
 394 imposition of an administrative fine. The registration of a duly
 395 registered out-of-state consumer debt collector is subject to
 396 revocation or suspension in the same manner as the registration
 397 of any other registrant under this part.

398 (3) In order to effectuate this section and enforce the
 399 requirements of this part as it relates to out-of-state consumer
 400 debt collectors, the Attorney General is expressly authorized to
 401 initiate such action on behalf of the state as he or she deems
 402 appropriate in any state or federal court of competent
 403 jurisdiction.

404 Section 9. Section 559.715, Florida Statutes, is amended
 405 to read:

406 559.715 Assignment of consumer debts.—This part does not
 407 prohibit the assignment, by a creditor, of the right to bill and
 408 collect a consumer debt. However, the assignee must give the
 409 debtor written notice of the ~~such~~ assignment ~~as soon as~~
 410 ~~practical after the assignment is made, but at least 30 days~~
 411 ~~before any action to collect the debt.~~ Compliance with the
 412 validation-of-debts requirements of the Federal Fair Debt
 413 Collection Practices Act, 15 U.S.C. s. 1692g, shall satisfy the
 414 written notice requirement. The assignee is a real party in
 415 interest and may bring an action to collect a debt that has been
 416 assigned to the assignee and is in default.

417 Section 10. Section 559.72, Florida Statutes, is amended
 418 to read:

419 559.72 Prohibited practices generally.—In collecting
 420 consumer debts, a debt collector may not ~~no person shall~~:

421 (1) Simulate in any manner a law enforcement officer or a
 422 representative of any governmental agency.

423 (2) Use or threaten force or violence.

424 (3) Tell a debtor who disputes a consumer debt that she or
 425 he or any person employing her or him will disclose to another,
 426 orally or in writing, directly or indirectly, information
 427 affecting the debtor's reputation for credit worthiness without
 428 also informing the debtor that the existence of the dispute will
 429 also be disclosed as required by subsection (6).

430 (4) Communicate or threaten to communicate with a debtor's
 431 employer before obtaining final judgment against the debtor,
 432 unless the debtor gives her or his permission in writing to
 433 contact her or his employer or acknowledges in writing the
 434 existence of the debt after the debt has been placed for
 435 collection. However, this does not prohibit a person from
 436 telling the debtor that her or his employer will be contacted if
 437 a final judgment is obtained.

438 (5) Disclose to a person other than the debtor or her or
 439 his family information affecting the debtor's reputation,
 440 whether or not for credit worthiness, with knowledge or reason
 441 to know that the other person does not have a legitimate
 442 business need for the information or that the information is

443 false.

444 (6) Disclose information concerning the existence of a
445 debt known to be reasonably disputed by the debtor without
446 disclosing that fact. If a disclosure is made before such
447 dispute has been asserted and written notice is received from
448 the debtor that any part of the debt is disputed, and if such
449 dispute is reasonable, the person who made the original
450 disclosure must reveal upon the request of the debtor within 30
451 days the details of the dispute to each person to whom
452 disclosure of the debt without notice of the dispute was made
453 within the preceding 90 days.

454 (7) Willfully communicate with the debtor or any member of
455 her or his family with such frequency as can reasonably be
456 expected to harass the debtor or her or his family, or willfully
457 engage in other conduct which can reasonably be expected to
458 abuse or harass the debtor or any member of her or his family.

459 (8) Use profane, obscene, vulgar, or willfully abusive
460 language in communicating with the debtor or any member of her
461 or his family.

462 (9) Claim, attempt, or threaten to enforce a debt when
463 such person knows that the debt is not legitimate, or assert the
464 existence of some other legal right when such person knows that
465 the right does not exist.

466 (10) Use a communication that simulates in any manner
467 legal or judicial process or that gives the appearance of being
468 authorized, issued, or approved by a government, governmental

469 agency, or attorney at law, when it is not.

470 (11) Communicate with a debtor under the guise of an
471 attorney by using the stationery of an attorney or forms or
472 instruments that only attorneys are authorized to prepare.

473 (12) Orally communicate with a debtor in a manner that
474 gives the false impression or appearance that such person is or
475 is associated with an attorney.

476 (13) Advertise or threaten to advertise for sale any debt
477 as a means to enforce payment except under court order or when
478 acting as an assignee for the benefit of a creditor.

479 (14) Publish or post, threaten to publish or post, or
480 cause to be published or posted before the general public
481 individual names or any list of names of debtors, commonly known
482 as a deadbeat list, for the purpose of enforcing or attempting
483 to enforce collection of consumer debts.

484 (15) Refuse to provide adequate identification of herself
485 or himself or her or his employer or other entity whom she or he
486 represents if requested to do so by a debtor from whom she or he
487 is collecting or attempting to collect a consumer debt.

488 (16) Mail any communication to a debtor in an envelope or
489 postcard with words typed, written, or printed on the outside of
490 the envelope or postcard calculated to embarrass the debtor. An
491 example of this would be an envelope addressed to "Deadbeat,
492 Jane Doe" or "Deadbeat, John Doe."

493 (17) Communicate with the debtor between the hours of 9
494 p.m. and 8 a.m. in the debtor's time zone without the prior

495 consent of the debtor.

496 (a) The person may presume that the time a telephone call
497 is received conforms to the local time zone assigned to the area
498 code of the number called, unless the person reasonably believes
499 that the debtor's telephone is located in a different time zone.

500 (b) If, such as with toll-free numbers, an area code is
501 not assigned to a specific geographic area, the person may
502 presume that the time a telephone call is received conforms to
503 the local time zone of the debtor's last known place of
504 residence, unless the person reasonably believes that the
505 debtor's telephone is located in a different time zone.

506 (18) Communicate with a debtor if the person knows that
507 the debtor is represented by an attorney with respect to such
508 debt and has knowledge of, or can readily ascertain, such
509 attorney's name and address, unless the debtor's attorney fails
510 to respond within 30 days to a communication from the person,
511 unless the debtor's attorney consents to a direct communication
512 with the debtor, or unless the debtor initiates the
513 communication.

514 (19) Cause a debtor to be charged for communications by
515 concealing the true purpose of the communication, including
516 collect telephone calls and telegram fees.

517 Section 11. Section 559.730, Florida Statutes, is amended
518 to read:

519 559.730 Grounds for disciplinary action; administrative
520 remedies.—

521 (1) Each of the following acts constitutes a ground for
522 which the disciplinary actions specified in subsection (2) may
523 be taken against a person registered or required to be
524 registered under this part:

525 (a) Failure to disburse funds in accordance with
526 agreements.

527 (b) Fraud, misrepresentation, deceit, negligence, or
528 incompetence in a collection transaction.

529 (c) Commission of fraud, misrepresentation, concealment,
530 or dishonest dealing by trick, scheme, or device; culpable
531 negligence; breach of trust in a business transaction in any
532 state, nation, or territory; or aiding, assisting, or conspiring
533 with another person engaged in such misconduct and in
534 furtherance thereof.

535 (d) Being convicted of, or entering a plea of guilty or
536 nolo contendere to, regardless of adjudication, a felony or
537 crime involving fraud, dishonesty, breach of trust, money
538 laundering, or act of moral turpitude.

539 (e) Having a final judgment entered against the registrant
540 in a civil action upon grounds of fraud, embezzlement,
541 misrepresentation, or deceit.

542 (f) Being the subject of a decision, finding, injunction,
543 suspension, prohibition, revocation, denial, judgment, or
544 administrative order by a court of competent jurisdiction or an
545 administrative law judge, or by a state or federal agency,
546 involving a violation of a federal or state law relating to debt

547 collection or a rule or regulation adopted under such law.

548 (g) Having a license or registration, or the equivalent,
549 to practice a profession or occupation denied, suspended, or
550 revoked, or otherwise acted against, including the denial of a
551 registration or license by a registration or licensing authority
552 of this state or another state, territory, or country.

553 (h) Acting as a consumer collection agency without a
554 current registration issued under this part.

555 (i) A material misstatement or omission of fact on an
556 initial or amended registration application.

557 (j) Payment to the office for a registration or permit
558 with a check or electronic transmission of funds, which is
559 dishonored by the applicant's or registrant's financial
560 institution.

561 (k) Failure to comply with, or a violation of, any
562 provision of this part, or any rule or order made or issued
563 pursuant to this part.

564 (l) Failure to maintain, preserve, and keep available for
565 examination all books, accounts, or other documents required by
566 this part and the rules of the commission.

567 (m) Refusal to permit an investigation or examination of
568 books and records, or refusal to comply with an office subpoena
569 or subpoena duces tecum.

570 (n) Failure to timely pay a fee, charge, or fine imposed
571 or assessed pursuant to this part and the rules of the
572 commission.

573 (2) If the office finds a person in violation of any act
574 specified in this section, it may enter an order imposing one or
575 more of the following penalties:

576 (a) Issuance of a reprimand.

577 (b) Suspension of a registration, subject to reinstatement
578 upon satisfying all reasonable conditions imposed by the office.

579 (c) Revocation of a registration.

580 (d) Denial of a registration.

581 (e) Imposition of a fine of up to \$10,000 for each count
582 or separate offense.

583 (f) An administrative fine of up to \$1,000 per day for
584 each day that a person engages as a consumer collection agency
585 without a valid registration issued under this part.

586 ~~(1) The office may impose an administrative fine against,~~
587 ~~or revoke or suspend the registration of, a registrant under~~
588 ~~this part who has committed a violation of s. 559.72. Final~~
589 ~~action to fine, suspend, or revoke the registration of a~~
590 ~~registrant is subject to review in accordance with chapter 120.~~

591 (3)(2) The office may impose suspension rather than
592 revocation of a registration if circumstances warrant that one
593 or the other should be imposed and the registrant demonstrates
594 that the registrant has taken affirmative steps that can be
595 expected to effectively eliminate the violations and that the
596 registrant's registration has never been previously suspended.

597 (4) A consumer collection agency is subject to the
598 disciplinary actions specified in subsection (2) for a violation

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599 of subsection (1) by a control person of the consumer collection
600 agency.

601 (5) Pursuant to s. 120.06(6), the office may summarily
602 suspend the registration of a consumer collection agency if the
603 office has reason to believe that a registrant poses an
604 immediate, serious danger to the public's health, safety, or
605 welfare. The arrest of the registrant, or the consumer
606 collection agency's control person, for any felony or any crime
607 involving fraud, dishonesty, breach of trust, money laundering,
608 or any other act of moral turpitude is deemed sufficient to
609 constitute an immediate danger to the public's health, safety,
610 or welfare. Any processing for the summary suspension of a
611 registration must be conducted by the commissioner of the
612 office, or designee, who shall issue the final summary order.

613 (6) The office may deny a request to terminate a
614 registration or withdraw a registration application if the
615 office believes that an act that would be a ground for
616 registration denial, suspension, restriction, or revocation
617 under this part has been committed.

618 ~~(7)(3) In addition to, or in lieu of suspension or~~
619 ~~revocation of a registration, the office may impose an~~
620 ~~administrative fine of up to \$10,000 per violation against a~~
621 ~~registrant for violations of s. 559.72. The Financial Services~~
622 ~~commission shall adopt rules establishing guidelines for~~
623 ~~imposing administrative penalties.~~

624 ~~(8)(4)~~ This part does not preclude any person from

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625 | pursuing remedies available under the Federal Fair Debt
626 | Collection Practices Act for any violation of such act.

627 | Section 12. This act shall take effect July 1, 2014.