

By the Committees on Commerce and Tourism; and Banking and Insurance; and Senators Stargel and Gaetz

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1 A bill to be entitled

2 An act relating to consumer debt collection; amending
3 s. 559.72, F.S.; authorizing a debtor to individually
4 notify a person that is represented by an attorney
5 under certain circumstances; providing that an
6 original creditor is not liable for a violation of
7 prohibited communication practices if the debtor or
8 the debtor's attorney fails to provide certain notice
9 or information; providing notification requirements;
10 providing that an original creditor must cease direct
11 communication with the debtor under certain
12 circumstances; providing an effective date.

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

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16 Section 1. Subsection (18) of section 559.72, Florida
17 Statutes, is amended to read:

18 559.72 Prohibited practices generally.—In collecting
19 consumer debts, no person shall:

20 (18) Communicate with a debtor if the person knows that the
21 debtor is represented by an attorney with respect to such debt
22 and has knowledge of, or can readily ascertain, such attorney's
23 name and address, unless the debtor's attorney fails to respond
24 within 30 days to a communication from the person, ~~unless~~ the
25 debtor's attorney consents to a direct communication with the
26 debtor, or ~~unless~~ the debtor initiates the communication. A
27 debtor, individually, may notify such person of attorney
28 representation by way of any reasonable means, including verbal
29 notice.

30 (a) An original creditor is not liable for a violation of
31 this subsection if the debtor or debtor's attorney fails to

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32 provide notification of representation. With respect to
33 notification of representation by a debtor's attorney, an
34 original creditor has knowledge that a debtor is represented by
35 an attorney if the attorney representing the debtor has provided
36 notification of such representation by:

37 1. Service of pleadings in a filed action;

38 2. Providing written notice of representation by certified
39 mail to the registered agent of the original creditor which
40 states that the debtor is represented by an attorney with
41 respect to such debt and which discloses the attorney's name and
42 address; or

43 3. Providing notice of representation by mail, facsimile,
44 e-mail, or other electronic format designated by the creditor on
45 a billing statement which states that the debtor is represented
46 by an attorney with respect to such debt and which discloses the
47 attorney's name and address. The original creditor shall
48 designate at least one of the following communication methods on
49 a billing statement: a mailing address facsimile, e-mail, or
50 other electronic format.

51 (b) For purposes of this subsection, an original creditor
52 must cease direct communication with the debtor subject to the
53 limitations and exceptions of this subsection within 5 business
54 days upon receiving notice of representation from the attorney
55 representing the debtor.

56 Section 2. This act shall take effect July 1, 2016.
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