

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

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A bill to be entitled

An act relating to consumer debt collection; amending s. 559.72, F.S.; specifying methods by which a debtor, represented by an attorney, may notify a creditor of such representation; specifying methods by which an attorney representing a debtor may notify a creditor of such representation; requiring a creditor to identify the manner by which a debtor may communicate notice of representation; providing that a creditor must cease direct communication with the debtor under certain circumstances; providing an effective date.

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

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

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

(18) Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address.

(a) This subsection does not apply if: ~~unless~~

1. The debtor's attorney fails to respond within 30 days to a communication from the person; ~~unless~~

2. The debtor's attorney consents to a direct communication with the debtor; ~~or~~

3. unless The debtor initiates the communication.

(b) A creditor has knowledge that a debtor is represented by an attorney if the debtor, individually, has provided notice of representation by any reasonable means, including oral notice

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32 to a creditor if such oral notice is provided in response to a
33 communication initiated by the creditor with respect to such
34 debt.

35 (c) A creditor has knowledge that a debtor is represented
36 by an attorney if the attorney representing the debtor has
37 provided notice of such representation by:

38 1. Service of pleadings in a filed action with respect to
39 such debt;

40 2. Providing written notice of representation to a location
41 or person according to a prior agreement between the creditor
42 and the debtor's attorney which states the debtor is represented
43 by an attorney with respect to such debt and discloses the
44 attorney's name and address;

45 3. Providing written notice of representation by certified
46 mail to the registered agent of the creditor which states that
47 the debtor is represented by an attorney with respect to such
48 debt and discloses the attorney's name and address; or

49 4. Providing written notice of representation by mail,
50 facsimile, e-mail, or other electronic format designated by the
51 creditor on a billing statement or other written communication
52 pertaining to the debt which states that the debtor is
53 represented by an attorney with respect to such debt and
54 discloses the attorney's name and address.

55 (d) A creditor shall designate, on a billing statement or
56 other written communication pertaining to the debt, at least one
57 of the following communication methods for notice of
58 representation:

59 1. A mailing address;

60 2. A facsimile;

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61 3. An e-mail address; or

62 4. Other electronic means.

63 (e) For the purposes of this subsection, a creditor must
64 cease direct communication with the debtor subject to the
65 limitations and exceptions of this subsection within 5 business
66 days upon receiving notice of representation from the attorney
67 representing the debtor.

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