

By Senator Rodriguez

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1 A bill to be entitled  
2 An act relating to prohibited practices when  
3 collecting consumer debts; amending s. 559.72, F.S.;  
4 prohibiting persons from contacting debtors when  
5 collecting a consumer debt if the debt arises from  
6 specified circumstances relating to domestic abuse,  
7 elder abuse, human trafficking, identify theft,  
8 exploitation of a vulnerable adult, or sexual abuse  
9 and certain requirements are met; providing  
10 applicability; reenacting ss. 559.565(2), 559.725(2),  
11 559.77(1) and (2), and 648.44(1)(o), F.S., relating to  
12 enforcement actions against out-of-state consumer debt  
13 collectors, consumer complaints, civil remedies  
14 relating to debt collection, and prohibitions relating  
15 to bail bond agents, respectively, to incorporate the  
16 amendments made to s. 559.72, F.S., in references  
17 thereto; providing an effective date.  
18

19 Be It Enacted by the Legislature of the State of Florida:  
20

21 Section 1. Subsections (20) through (25) are added to  
22 section 559.72, Florida Statutes, to read:

23 559.72 Prohibited practices generally.—In collecting  
24 consumer debts, no person shall:

25 (20) Contact a debtor regarding a debt that arises from  
26 documented domestic and economic abuse.

27 (a) For the purposes of this subsection, documented  
28 domestic and economic abuse occurs when:

29 1. The debtor alleges in a police report that the debtor

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30 has been the victim of domestic violence by a specified alleged  
31 perpetrator who is:

32 a. A current or former spouse;

33 b. An individual with whom the debtor has a child in  
34 common;

35 c. An individual with whom the debtor is or was in a dating  
36 relationship; or

37 d. A current or former resident of the debtor's household;  
38 and

39 2. The debtor provides the person with a signed affidavit  
40 attesting that all of the following is true:

41 a. The debtor was the victim of domestic violence by a  
42 specified perpetrator and such violence was alleged in a police  
43 report pursuant to subparagraph 1.;

44 b. As a result of threats of domestic violence from the  
45 perpetrator referenced in such police report, the debtor was  
46 compelled to incur debt or was provided credit that the debtor  
47 would not otherwise have incurred or applied for in the absence  
48 of the threat of domestic violence; and

49 c. The debt that is the subject of the person's contact  
50 with the debtor is a debt incurred solely because of such threat  
51 of domestic violence.

52 (b) The prohibition under this subsection applies for 2  
53 years after the affidavit under subparagraph (a)2. is provided  
54 to the person. However, if the perpetrator described in such  
55 affidavit has been convicted of a crime relating to domestic  
56 violence arising from conduct referenced in the police report,  
57 the prohibition applies indefinitely.

58 (21) Contact a debtor regarding a debt that arises from

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59 documented elder and economic abuse.

60 (a) For the purposes of this subsection, documented elder  
61 and economic abuse occurs when:

62 1. The debtor, or someone with fiduciary responsibility  
63 over the debtor, alleges in a police report that the debtor has  
64 been the victim of elder abuse by a specified alleged  
65 perpetrator; and

66 2. The debtor, or someone with fiduciary responsibility  
67 over the debtor, provides the person with a signed affidavit  
68 attesting that all of the following is true:

69 a. The debtor was the victim of elder abuse and the elder  
70 abuse was alleged in a police report pursuant to subparagraph  
71 1.;

72 b. As a result of such alleged elder abuse, the debtor was  
73 compelled to incur debt or was provided credit that the debtor  
74 would not otherwise have incurred or applied for in the absence  
75 of such abuse, including, but not limited to, instances in which  
76 the debtor's identity was stolen; and

77 c. The debt that is the subject of the person's contact  
78 with the debtor is a debt incurred solely because of such elder  
79 abuse.

80 (b) The prohibition under this subsection applies for 2  
81 years after the affidavit under subparagraph (a)2. is provided  
82 to the person. However, if the perpetrator described in such  
83 affidavit has been convicted of a crime relating to elder abuse  
84 arising from conduct referenced in the police report, the  
85 prohibition applies indefinitely.

86 (22) Contact a debtor regarding a debt that arises from  
87 documented human trafficking and economic abuse.

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88       (a) For the purposes of this subsection, documented human  
89 trafficking and economic abuse occurs when:

90       1. The debtor is identified as a victim of at least one  
91 instance of human trafficking in a police report or the  
92 Department of Legal Affairs makes a determination that the  
93 debtor is eligible for relocation assistance under s. 960.196;  
94 and

95       2. The debtor provides the person with a signed affidavit  
96 attesting that all of the following is true:

97       a. The debtor was the victim of human trafficking as  
98 documented in a police report pursuant to subparagraph 1. or the  
99 Department of Legal Affairs has determined that the debtor is  
100 eligible for relocation assistance under s. 960.196;

101       b. As a result of human trafficking, the debtor was  
102 compelled to incur debt or was provided credit that the debtor  
103 would not otherwise have incurred or applied for in the absence  
104 of human trafficking, including, but not limited to, instances  
105 in which the debtor's identity was stolen; and

106       c. The debt that is the subject of the person's contact  
107 with the debtor is a debt incurred solely because of such human  
108 trafficking.

109       (b) The prohibition under this subsection applies for 2  
110 years after the affidavit under subparagraph (a)2. is provided  
111 to the person. However, if a conviction is made relating to  
112 human trafficking arising from conduct referenced in the police  
113 report or the debtor has received relocation assistance pursuant  
114 to s. 960.196, the prohibition applies indefinitely.

115       (23) Contact a debtor regarding a debt that arises from  
116 documented identity theft. For the purposes of this subsection,

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117 documented identity theft occurs when all of the following  
118 apply:

119 (a) The debtor provides the person with a Federal Trade  
120 Commission identity theft report indicating that the debtor was  
121 the victim of identity theft.

122 (b) The debtor provides the person with a signed affidavit  
123 attesting that all of the following is true:

124 1. The debtor was the victim of identity theft as  
125 documented in the identity theft report under paragraph (a);  
126 2. As a result of such identity theft, the debt that is the  
127 subject of the person's contact with the debtor was incurred in  
128 the debtor's name but the debtor did not receive any benefit  
129 from the debt; and

130 3. The debt that is the subject of the person's contact  
131 with the debtor is a debt incurred solely because of identity  
132 theft.

133 (24) Contact a debtor after receiving notice that the  
134 debtor is protected by an injunction for protection against  
135 exploitation of a vulnerable adult pursuant to s. 825.1035.

136 (25) Contact a debtor who has received relocation  
137 assistance pursuant to s. 960.199 if the debtor provides the  
138 person with a signed affidavit attesting that all of the  
139 following is true:

140 (a) The debtor received relocation assistance pursuant to  
141 s. 960.199.

142 (b) As a result of the threat of sexual abuse that was a  
143 contributing factor to receiving such assistance, the debtor was  
144 compelled to incur debt or was provided credit the debtor would  
145 not otherwise have incurred or applied for in the absence of

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146 such abuse, including, but not limited to, instances in which  
147 the debtor's identity was stolen.

148 (c) The debt that is the subject of the person's contact  
149 with the debtor is a debt incurred solely because of the threat  
150 of sexual abuse.

151 Section 2. For the purpose of incorporating the amendments  
152 made by this act to section 559.72, Florida Statutes, in a  
153 reference thereto, subsection (2) of section 559.565, Florida  
154 Statutes, is reenacted to read:

155 559.565 Enforcement action against out-of-state consumer  
156 debt collector.—The remedies of this section are cumulative to  
157 other sanctions and enforcement provisions of this part for any  
158 violation by an out-of-state consumer debt collector, as defined  
159 in s. 559.55(11).

160 (2) A person, whether or not exempt from registration under  
161 this part, who violates s. 559.72 is subject to sanctions the  
162 same as any other consumer debt collector, including imposition  
163 of an administrative fine. The registration of a duly registered  
164 out-of-state consumer debt collector is subject to revocation or  
165 suspension in the same manner as the registration of any other  
166 registrant under this part.

167 Section 3. For the purpose of incorporating the amendments  
168 made by this act to section 559.72, Florida Statutes, in a  
169 reference thereto, subsection (2) of section 559.725, Florida  
170 Statutes, is reenacted to read:

171 559.725 Consumer complaints; administrative duties.—

172 (2) The office shall inform and furnish relevant  
173 information to the appropriate regulatory body of the state or  
174 the Federal Government, or The Florida Bar in the case of

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175 attorneys, if a person has been named in a consumer complaint  
176 pursuant to subsection (3) alleging violations of s. 559.72. The  
177 Attorney General may take action against any person in violation  
178 of this part.

179 Section 4. For the purpose of incorporating the amendments  
180 made by this act to section 559.72, Florida Statutes, in  
181 references thereto, subsections (1) and (2) of section 559.77,  
182 Florida Statutes, are reenacted to read:

183 559.77 Civil remedies.—

184 (1) A debtor may bring a civil action against a person  
185 violating the provisions of s. 559.72 in the county in which the  
186 alleged violator resides or has his or her principal place of  
187 business or in the county where the alleged violation occurred.

188 (2) Any person who fails to comply with any provision of s.  
189 559.72 is liable for actual damages and for additional statutory  
190 damages as the court may allow, but not exceeding \$1,000,  
191 together with court costs and reasonable attorney's fees  
192 incurred by the plaintiff. In determining the defendant's  
193 liability for any additional statutory damages, the court shall  
194 consider the nature of the defendant's noncompliance with s.  
195 559.72, the frequency and persistence of the noncompliance, and  
196 the extent to which the noncompliance was intentional. In a  
197 class action lawsuit brought under this section, the court may  
198 award additional statutory damages of up to \$1,000 for each  
199 named plaintiff and an aggregate award of additional statutory  
200 damages up to the lesser of \$500,000 or 1 percent of the  
201 defendant's net worth for all remaining class members; however,  
202 the aggregate award may not provide an individual class member  
203 with additional statutory damages in excess of \$1,000. The court

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204 may award punitive damages and may provide such equitable relief  
205 as it deems necessary or proper, including enjoining the  
206 defendant from further violations of this part. If the court  
207 finds that the suit fails to raise a justiciable issue of law or  
208 fact, the plaintiff is liable for court costs and reasonable  
209 attorney's fees incurred by the defendant.

210 Section 5. For the purpose of incorporating the amendments  
211 made by this act to section 559.72, Florida Statutes, in a  
212 reference thereto, paragraph (o) of subsection (1) of section  
213 648.44, Florida Statutes, is reenacted to read:

214 648.44 Prohibitions; penalty.—

215 (1) A bail bond agent or temporary bail bond agent may not:

216 (o) Attempt to collect, through threat or coercion, amounts  
217 due for the payment of any indebtedness related to the issuance  
218 of a bail bond in violation of s. 559.72.

219 Section 6. This act shall take effect July 1, 2022.